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Convention on the Rights of the Child

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Committee on the Rights of the Child

# Consideration of reports submitted by States parties under article 44 of the Convention

## Third and fourth periodic reports of States parties due in 2011

## Maldives*

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## Introduction

1. This report is submitted in accordance with article 44 of the Convention on the Rights of the Child (hereafter "the Convention") and covers the period from the date of Maldives' combined second and third report (CRC/C/MDV/3), March 14th, 2006 to August 31st 2012. The due date for this report was September 12, 2011.[1] The Government of Maldives sincerely regrets the delay in submitting this periodic report.

2. Major political changes have taken place in the Maldives during the reporting period. As the rapidly evolving political landscape will be referred to throughout the report, it is important to give a brief account of it upfront.

3. With the change of government in 2008, the Ministry of Gender and Family was restructured into a Department within a new Ministry of Health and Family. This led to considerable cuts in both the human and financial resources available for certain aspects of the implementation of the Convention. In spite of this, the fact that children's rights became part of the public health discourse paved the way for some significant progress in the years that followed.

4. The change of government also meant that mandates were redrawn and new directives were issued. This was coupled with cuts in training for critical technical staff, such as social workers and counsellors. In fact, not a single training programme was conducted for social service workers in the three years leading up to 2012. In late 2012 a refresher course was provided to social service workers in the Ministry of Gender, Family and Human Rights. While there were political and economic reasons for these reforms, they are believed to have had an impeding effect on the Government's overall ability to implement the Convention.

5. The reporting period also saw a redundancy package offered to civil servants, as part of an effort to downsize a bloated civil service and to reduce public expenditures. This meant that approximately 20 percent of the technical staff within the Department of Gender and Family Protection Services separated from the civil service and their posts were abolished. This happened after the Department had already lost technical staff as a result of the absorption into a new Ministry, thus amplifying the effect of the losses.[2]

6. In February 2012, the Government changed again, and recent reforms have included the creation of a new Ministry of Gender, Family, and Human Rights, which will now assume the main coordinating role in the implementation of the Convention. While it remains to be seen what substantive changes this restructuring will bring about, it has already given rise to a number of administrative and budgetary modifications, and it will take some time to get new routines and practices properly established.

7. This report is being drafted in the midst of this transition period. The report will refer to "the Ministry of Gender and Family" in relation to activities and events that took place prior to the changes introduced in 2008. It will refer to "the Department for Gender and Family Protection Services" (under the Ministry of Health and Family) in relation to activities and events during the period between 2008 and early 2012. For current and future activities and events, the new name "the Ministry of Gender, Family and Human Rights" will be used.

[1] Paragraph 103 of the concluding observations, CRC/C/MDV/CO/3.

[2] See also Graveson, *Maldives Community Based Rehabilitation Programmes*, UNICEF (2011) p. 30.

### Structure of the report

8. This report will, in accordance with the treaty specific guidelines regarding form and content of periodic reports, seek to show what action has been taken to give effect to the Committee's recommendations, but also elaborate on the dilemmas and challenges that have arisen in the course of implementing the Convention.[3] Thus every section of the report will follow the order set out below:

(a) One or two paragraphs offering a brief overview of the developments in respect of the rights in question during the reporting period, as well as a snapshot of the current situation;

(b) Responses to the Committee's observations, offering clarifications and updates;

(c) Responses to each of the specific recommendations issued by the Committee (the paragraphs that appear in bold letters in the concluding observations), and;

(d) Information on developments, emerging issues, and challenges that are not necessarily referred to in the concluding observations, but which nevertheless warrant the Committee's attention.

9. The Maldives has submitted its initial reports under the Optional Protocol on the sale of children, child prostitution, and child pornography (hereafter "OPSC") and the Optional Protocol on the involvement of children in armed conflict (hereafter "OPAC").[4] Hence, this periodic report will also, in accordance with the treaty specific guidelines, "include further information relevant to the implementation of the Optional Protocols..."[5]

10. The Ministry of Gender, Family and Human Rights prepared this report through a consultative process in which inputs were sought from a wide range of stakeholders, including from many children of all age groups, in three atolls and in Malé. Also in accordance with the treaty specific guidelines, most statistics are confined to annex I.[6]

## I. General measures of implementation (arts. 4, 42 and 44 of the Convention)

### Committee's previous recommendations

11. The Maldivian Government would like to express its appreciation to the Committee on the Rights of the Child (hereafter "the Committee") for its analysis of the combined second and third periodic reports from the Maldives, and in particular for the constructive recommendations contained in the Committee's concluding observations.

12. The Committee made the specific recommendation to ratify the "conventions of the International Labour Organization (ILO) regarding the rights of the child."[7] Maldives takes its international treaty obligations very seriously. Maldives has therefore sought to

[3] Treaty-specific guidelines regarding form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b) of the Convention on the Rights of the Child, CRC/C/58/Rev.2 and Corr.1 (2010).

[4] OPSC reference: CRC/C/OPSC/MDV/1, OPAC reference: CRC/C/OPAC/MDV/1.

[5] Paragraph 3 of the Guidelines, op. cit.

[6] Paragraph 14 of the Guidelines, op. cit.

[7] Paragraph 8 of the concluding observations, op. cit.

harmonise its legislation with the above-mentioned treaties prior to ratification. The Employment Act (2008) was passed, which tightly regulates the employment of minors and gives effect to most of the provisions of the ILO Core Conventions.[8] In May 2009, the Maldives became the 183rd member of ILO and is currently working with the ILO Secretariat on labour law reform and labour administration. On 23rd December 2012 the Maldives ratified the 8 core conventions of the ILO including the Child Labour convention. This Convention is scheduled to come into effect in March 2013.

## Reservations

13. With regard to reservations generally, Maldives reasserts its right, under article 19 of the Vienna Convention on the Law of Treaties (1969) to formulate reservations, subject to the conditions set out in subsections (a)-(c) of the same article. Maldives does not consider the reservations it has made to articles 14 (1) and 21 of the CRC to be "incompatible with the object and purpose of the treaty" (article 19 (c) of the Vienna Convention) and hence they would appear to be legal under the Vienna Convention, as interpreted in the jurisprudence of the International Court of Justice.[9]

14. As emphasised in previous reports, Islam is the foundation of our nation and our society.[10] Hence, as prescribed by the Constitution, "[n]o law contrary to any tenet of Islam shall be enacted in the Maldives."[11] This applies to municipal law as well as international law. Maldives cannot submit itself to a provision, which is "contrary to any tenet of Islam".

15. As the Committee has pointed out, article 21 only "refers to state parties which 'recognise and/or permit the system of adoption'".[12] Maldivian law neither recognises nor permits any system of adoption whereby a person attributes their adopted child to themselves.[13] Hence it would appear that withdrawing the reservation to article 21 would have no practical effect. The wellbeing of children under legal guardianship is safeguarded by the new Foster Care Regulations (which are yet to be gazetted, but are applied in practice), as well as by Islamic law. A much-cited hadith epitomizes our law and values with regard to children whose parents are unable to care for them; "the Prophet (peace be upon him) said: 'I and the one who sponsors an orphan are like this in Paradise.' Then he joined his index and middle fingers."[14]

16. Article 27 of the Vienna Convention on the Law of Treaties provides that, where a treaty conflicts with a state's municipal law (including the state's constitution), the state must still meet its obligations under the treaty. Given this obligation, it should be reiterated that a withdrawal of the reservation to article 14 of the CRC, would require an amendment to the Constitution.[15] If a court were to find that implementing article 14 would be unconstitutional, then the Government might find itself in the conundrum of having to act *ultra vires* in respect of the Constitution, in order to fulfil its obligations under international treaty law.

[8] See chapter 3, sections 6-12 of the Employment Act 2008, Act No. 2/2008.

[9] Advisory Opinion of the International Court of Justice of 28 May 1951 on Reservations to the Genocide Convention, I.C.J. Reports 1951, p. 15.

[10] Paragraph 22 of Maldives' second and third periodic reports, 10 April 2006, CRC/C/MDV/3.

[11] Section 10 (b) of the Constitution.

[12] Paragraph 9 of the concluding observations, op. cit.

[13] Sûrah Al Ahzab 33:5.

[14] Sahîh al-Bukhârî (5304).

[15] See paragraph 23 of Maldives' second and third periodic reports, op. cit.

## Legislation

17. In accordance with advice from the Committee, Maldives has continued its efforts to reform legislation and regulatory frameworks to ensure conformity with the Convention.[16] Here follows a summary of the most significant legislative and regulatory measures aimed at strengthening the protection of children's rights.

(a) Amendments to Sentencing Guidelines 2008

Article 173 (sentencing guidelines for sexual offences)[17] of the Regulation on the Conduct of Court Proceedings was amended to introduce stricter mandatory prison sentences for sexual offences.[18]

(b) Special Measures for Perpetrators of Child Sexual Abuse 2009

This legislation facilitates the prosecution of child sexual abuse offences and it also radically increases the sentences that can be handed down in respect of such offences.[19]

(c) The Civil Service Act 2007

The legislation and its subsequent regulations in 2008 and 2010 contain provisions that support families of civil servants and assist parents with their family responsibilities.[20] Measures include, inter alia, paid maternity leave, paid family responsibility leave, and one year unpaid leave for either the father or the mother after the paid maternity or family responsibility leave. The 15th amendment to the Civil Service Regulation 2010, which was gazetted in August 2012, introduces financial aid for minors, widowed spouses and elderly parents of any civil servant who passes away while on duty.

(d) Protection and Financial Assistance to Persons with Disabilities Act 2010

The act and its accompanying regulations set out the procedures for (i) identifying persons with disabilities (ii) establishing a database, and (iii) providing financial and other support to such persons and their families.[21]

(e) Thalassaemia Control Act 2010

The law establishes a body that will set up a registry of thalassaemia patients and develop government procedures to provide the needed medical and financial assistance to those affected by thalassaemia.[22] This body will also create a mechanism to identify and test for thalassaemia carriers.

(f) Domestic Violence Act 2012

This new legislation is designed to protect victims of domestic abuse.[23] It introduces several remedies such as protection orders, restraining orders, and maintenance orders.

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[16] Paragraph 12 of the concluding observations, op. cit.
[17] Ministry of Justice Circular MJ/01/2008.
[18] Paragraph 68 of the Replies for the Government of Maldives, op. cit.
[19] Act No. 12/2009.
[20] Act No. 5/2007.
[21] Act No. 8/2010.
[22] Act No. 6/2010.
[23] Act No. 3/2012.

(g) National Health Insurance Act 2011

This critical piece of legislation provides all citizens and persons living in the Maldives with a health insurance programme, regardless of their ability to pay.

(h) Drugs Act 2011

With the enactment of this legislation, drug use will henceforth be considered a medical and social predicament, to be addressed through treatment and rehabilitation, rather than imprisonment and punishment.

(i) Pre-Schools Act 2012

This law is part of the effort to formalise early childhood education, and to make such opportunities accessible on an equitable basis to all children regardless of economic and social status.

(j) Pensions Act 2009

Grandparents and even great grandparents play an important role in the upbringing of children in Maldives. The Pensions Act provides economic empowerment for retired people, who often use these resources to support their children and grandchildren.[24]

(k) Public Health Act 2012

This law establishes mandatory reporting provisions for communicable diseases. It also makes it possible to fine anyone who refuses to vaccinate a child or who otherwise obstructs the vaccination of a child.[25]

18. In addition to the above-mentioned pieces of legislation, which have been enacted during the reporting period, there are a number of bills pending enactment. The 2008 Constitution significantly altered the system of governance in the Maldives. Major legislative reforms were, and still are, needed to give full effect to the Constitution. In 2009, the Government identified no less than 165 pieces of legislation that had to be researched, drafted, agreed upon, and passed by the Majlis.[26]

19. At the same time, after the 2009 parliamentary elections, the relatively loose coalition government that was formed did not enjoy a majority in the Majlis. To pass legislation, they needed the support of independent members.[27] This uncertain parliamentary situation meant that the legislative process was slowed down for several years. The political tensions between the various parties escalated following February 7th, 2012, which in turn has further hampered efforts to get important legislation passed. A backlog of bills has therefore been building up over the years, including the following proposed laws, which have a direct bearing on the protection and welfare of children in the Maldives.

(a) Child Rights, Child Care and Child Protection Bill

This proposed legislation is being drafted to replace the existing Act on the Protection of the Rights of Children.[28] The first attempt at amending the existing act failed to incorporate key provisions on the child protection

[24] Act No. 8/2009.
[25] Act No. 16/2012.
[26] Situation Analysis, UN (2010) p. 9.
[27] Ibid.
[28] Act No. 9/91.

system. With assistance from the United Nations Children's Fund (UNICEF), a chapter on child protection systems has now been added to the bill. The proposed legislation will, when it is enacted, ensure that Maldivian law is brought into full compliance with the Convention and its optional protocols.

(b) Minimum Standards for Children's Home

These standards were drafted in 2007 and are pending approval by the Attorney General's Office before they can be gazetted.

(c) Regulations on State Custody

The regulations have been finalized and are currently awaiting endorsement by the Attorney General's Office. The regulations set forth procedures for removing children from their families in situations where children suffer physical and psychological abuse.

(d) Regulations on Foster Care

These regulations have also been finalised, and are awaiting endorsement from the Attorney Generals' Office. These regulations determine procedures for granting legal guardianship of children. The objective of the regulations is to provide such children with the opportunity to be brought up in a secure family environment and to minimise institutional care.

(e) Juvenile Justice Bill

A new bill on juvenile justice has been finalised and is also awaiting approval by the Attorney General's Office. If passed in its current form, this law will improve the protection of children in conflict with the law in a number of ways, as discussed under the juvenile justice heading in this report.

(f) Education Bill

The Education bill was presented to the Majlis in September 2010. Among other things, the proposed bill introduces compulsory education up to grade 10, and states that all children in the Maldives must have access to free primary *and* secondary schooling.

(g) The Evidence Bill

This law will, inter alia, expand the admissibility of forensic evidence in Maldivian courts. This will facilitate the prosecution of various types of child abuse and sexual assault offences.

(h) Social Security Bill

The bill, which has been tabled in the Majlis, aims to establish systems for the provision of a range of financial benefits to, inter alia, low-income households, single parents, and persons with disabilities. One of the explicit aims of the proposed law is also to reduce economic inequalities in the Maldives through wealth distribution.

(i) Human Trafficking and People Smuggling Bill

This bill, which has also been tabled in the Majlis, identifies trafficking of minors as an aggravated offence.

## National Plan of Action/Strategic Action Plan

20. With the change of the government in 2008, the National Plan of Action was replaced by the Strategic Action Plan (SAP) 2009-2013. However, with regard to the protection of children and their rights, the SAP incorporated much of the content of the National Plan of Action. The SAP is a national development plan covering all major sectors of society. One of the most prominent areas of attention in the plan is social justice. Under this heading, the plan sets out a number of policy initiatives, including inter alia:

(a) Strengthening child and family protection service delivery at central and provincial levels;

(b) Establishing and strengthening alternative care systems for children, women, elderly and people with disabilities;

(c) Providing a national response to child and family protection with trained professional service providers;

(d) Promoting the rights of the children, women, elderly and persons with disabilities through advocacy and awareness programmes;

(e) Aligning all public policies and services to address promotion of family wellbeing;

(f) Establishing a juvenile justice system based on restorative justice.

21. The implementation of the SAP is monitored with the help of a result framework for each sector. The result framework specifies targets to be achieved by each year and also identifies responsible agencies for each target. The annual budget of the Government has been developed focusing on the targets of the result framework. Much of the progress that this report will point to can be traced back to one of the result areas referred to above.

22. The Ministry of Gender, Family and Human Rights has embarked on a strategic planning process aimed at strengthening the child protection system in the Maldives. In partnership with UNICEF, one immediate priority will be to conduct a mapping and assessment of the child protection system to identify gaps and to provide the facts and data needed for evidence based policy making in the area of child protection.

## Coordination

23. Currently, there is no single intersectoral mechanism established for the coordination and evaluation of CRC implementation in the Maldives. Based on the recommendations from the Committee, an attempt was made to set up the Coordination Committee on the Rights of the Child. This was a resolution that came out of the National Child Protection Conference held in February 2011. However, the Coordination Committee only met a few times.

24. The Committee's concern over the effect of the "shifts in responsibly to coordinate child rights" and the "continuity of the work on child rights" is well founded.[29] Coordination has undeniably suffered due to the many changes and shifts in responsibilities. As outlined above, the child rights architecture has undergone further restructuring since the submission of the reports on the two optional protocols.[30] However,

[29] Paragraph 9–10 of the concluding observations on OPSC.
[30] See paragraphs 4–9 above.

there are reasons to believe that the new setup, with a Ministry of Gender, Family and Human Rights as the focal point, will prove more enduring.

25. There are a couple of coordination forums related to specific provisions of the CRC:

(a) The Coordination Committee on Juvenile Justice plays an important role in developing the juvenile justice system and in the management of cases involving children. It is made up of representatives from several government agencies and from civil society;

(b) The Disability Council monitors the implementation of policies related to persons with disabilities. The council is made up of government officials, people with disabilities, parents of children with disabilities, various medical practitioners, as well as NGO's providing services to people with disabilities;

(c) The National Steering Committee on Human Trafficking has members from, inter alia, the Ministry of Gender, Family and Human Rights, the Police, Attorney General's Office, Prosecutor General's Office, Judiciary, Immigration, and the Maldives Tourism Promotion Board. This committee leads the work against human trafficking and coordinates the implementation of the OPSC.

26. In accordance with the Committee's recommendations, Family and Child Service Centres (FCSC's) have been established in each of the atolls.[31] The population of Kaafu atoll is catered for by the Child and Family Protection Services (CFPS) in Malé. Currently there are a total of 19 FCSC's and they work closely with the regional police stations and other government authorities in the atolls as well as with civil society.

27. These efforts notwithstanding, there is a broad consensus among both state agencies and civil society actors that coordination has been inadequate during the reporting period. This is partially a consequence of the many rounds of restructuring and reorganisation that have taken place since 2007.[32] The Department of Gender and Family Protection Services has been the institution with the mandate to convene all actors working to implement the Convention in the Maldives. But naturally the sharp decline in financing and staffing levels within the Department meant that the capacity to fulfil that mandate was severely diminished.

## Independent monitoring

28. When the 2008 Constitution was adopted, the Human Rights Commission of the Maldives (HRCM) became a constitutional body.[33] This has further strengthened the Commission's independence. The same year, the Commission attained category B member status of the International Coordinating Committee of National Human Rights Institutions.[34] The HRCM has also established itself firmly in Maldivian society; in 2005, only 40.8 percent of the population had heard of it and knew anything about it, by 2011, that figure had increased to 72.8 percent.[35]

[31] Paragraph 17 of the concluding observations.

[32] See paragraphs 4–8 above.

[33] Article 190 of the Constitution of the Maldives.

[34] An "A" rating was withheld because of the provision in the Human Rights Commission Act which limits membership of the Commission to persons of the Islamic faith. See paragraph 134 of the common core document, op. cit.

[35] *Rights Side of Life – Six Years On*, Human Rights Commission of the Maldives (2012), p. 19.

29. Children are able to turn to the HRCM to report incidents or to make enquiries.[36] The Commission has two staff members trained to communicate with children in ways that are appropriate for their age and maturity. To make access to the Commission easier, a toll-free helpline was introduced in July 2010. Many children in Maldives have access to phones, and this is a service they can use even without having any airtime credit. Table 11 (a) of annex I lists the cases involving alleged child victims of human rights violations handled by the HRCM between 2010 and 2012.

30. The Committee's general comment No. 2 from 2002 has guided the HRCM, and it has implemented most of the activities listed in paragraph 19 (a)–(t) of the general comment.[37] The details of the important work of the HRCM is outlined in its annual reports and will also be reflected in the alternative report that the Commission will submit on the implementation of the CRC in Maldives.[38]

31. As for the Committee's concerns regarding the funding of the HRCM, table 2 (a) in annex I lists the allocated budgets for the Commission from 2008–2010. As the table reveals, funding for the Commission has increased over the years. There is also work underway to ensure greater financial independence for the HRCM.[39]

## Allocation of resources

32. During the reporting period the Government of Maldives has radically increased its spending in the social sector. In 2011 the SAP social justice budget, which includes line items such as the national health insurance, the single and foster parent allowances, and the welfare assistance, hit a record high of MVR 1,250,203,404.[40] Expenditures for health and education, as proportions of total Government expenditure, have remained relatively stable.[41]

33. This clear emphasis on the social sector and on serving vulnerable people in society has been met with praise from the United Nations. In a recent situational analysis, the UN noted that "[t]he Government's commitment to social protection is manifested through high expenditures on the social sector, which have averaged nearly 50 percent of the national budget in recent years."[42] In its implementation guidelines for the CRC, UNICEF has put forward the so called "20/20 Initiative", which calls for developing countries to allocate 20 percent of their budgets and donor countries to allocate 20 percent of official development assistance to basic social services.[43] Using the 20/20 formula as a benchmark, the

[36] Article 21 (a) of the Human Rights Commission Act (Act 6/2006).

[37] General comment No. 2, The role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2).

[38] See paragraphs 20–21 of general comment No. 2, ibid.

[39] See paragraph 5 of Replies from the Government of Maldives to the list of issues (CCPR/C/MDV/Q/1) to be taken up in connection with the consideration of its initial periodic report (CCPR/C/MDV/1).

[40] Table 13.12, Programmes for 2011 by sector, Statistical Yearbook 2010, op. cit.

[41] See tables 1–2, and Graph 1 in annex I; "Statistical information and data in periodic report submitted by the Republic of Maldives under article 44, paragraph 1 (b), of the Convention".

[42] Situation Analysis of Emerging Development Challenges and Opportunities in Maldives, United Nations, March 2010, p. ii.

[43] Implementation guidelines for the Convention on the Rights of the Child and Implementing the 20/20 Initiative, UNICEF (1998).

Government of Maldives has, by consistently spending about half of its budget on social services, clearly exceeded that target with a wide margin.[44]

34. When the Committee notes that "not enough attention has been paid to allocating budgetary resources in favour of children..." it begs two questions: (a) what counts as allocations "in favour of children", and (b) what amounts would the Committee deem to be sufficient allocations towards the budget lines that are considered to be "in favour of children"? An example illustrates the dilemma: Maldives has made considerable investments in a subsidised public ferry system that connects islands within atolls and connects atolls to each other. This has, inter alia, resulted in significantly enhanced access for children to education opportunities and health services outside of their home islands. Would such an investment, which, on the face of it may have little to do with children, nonetheless count as being "in favour of children"? Similarly, major investments have been made in affordable housing, justice sector reform, and youth development, all of which undoubtedly have benefited children, particularly children from poorer families.[45]

35. While overall spending on the social sector has clearly been relatively high, funding shortfalls have regrettably hampered the provision of critical child protection services. Several examples of this will be provided throughout the report.

36. At the same time, Maldives has been grappling with an increasing budget deficit. The Majlis' Financial Committee has projected that the Maldives budget deficit will reach 27 percent of the gross domestic product (GDP) by the end of 2012. The International Monetary Fund (IMF) has warned that if the country does not reduce its expenditure, it "risks running out of reserves and miring the country in poverty."[46] The Government will not, however, seek to balance its books on backs of the most vulnerable people in society. The Government has instead identified cost saving measures such as eliminating duplication of benefits, improving the targeting of financial aid schemes (so as to better reach those who are in greatest need), and introducing means testing for benefits such as free school books. These and other cost saving measures have been put forward as proposed amendments to the Social Security Bill.

37. The Committee has also recommended "that the State party increase budget allocations for the coordination, prevention, promotion, protection, care, investigation and suppression of acts covered by the Optional Protocol [on the sale of children, child prostitution and child pornography]."[47] The Government has taken note of this recommendation and will do its utmost to ensure that it is implemented.

## Data collection

38. There is currently no "national central database on children" as called for by the Committee.[48] Instead there is a patchwork of different data sources, stemming from a range of surveys, many of which are cited in this report. UNICEF compiles these different datasets into a database, which is the most comprehensive depository of data that exists on children in Maldives. This information is available to everyone directly from the UNICEF Maldives website.[49]

[44] Paragraph 22 of the concluding observations, op. cit.
[45] Statistical Yearbook 2011, Programmes for 2012, sector-wide.
[46] IMF Chief of Mission, quoted in Minivan News, May 7th, 2012.
[47] Paragraph 16 of the concluding observations on OPSC.
[48] Paragraph 24 (a) of the concluding observations, op. cit.
[49] See: http://www.unicef.org/infobycountry/maldives_maldives_statistics.html.

39. A second version of MaldivInfo has been developed. The database was set up to streamline and standardise national statistics and to provide disaggregated data to help formulate evidence-based plans and policies.

40. In the area of child protection, the Maldives Child Protection Database (MCPD) was established in 2010 with the assistance of UNICEF, and in collaboration with the Police Service, Ministry of Health and Family, Ministry of Education and the Juvenile Justice Unit (JJU). This national database keeps records of all child protection data and ensures that children are referred appropriately throughout the child protection system. The MCPD is designed to facilitate case management by capturing details and progress in cases of child abuse, juvenile delinquency and gender-based violence, and making it available to relevant service providers.

41. The MCPD is still at the stage of building data and information. Although the database is not yet fully used by all agencies, the JJU uses it to produce quarterly reports on juvenile crime trends, allowing for more evidence based policy making and planning, as suggested by the Committee.[50] Trainings have been held on the use of the database for all relevant agencies.[51] The MCPD will eventually also serve as a "national database [for] data relating to areas covered by the Optional Protocol [on the sale of children, child prostitution and child pornography]", which the Committee has called for.[52]

42. Additional investments in hardware are required in order for all agencies to be able to access the MCPD. The Ministry of Gender, Family and Human Rights exemplifies this; despite its leadership role in upholding children's rights, it is currently unable to access the MCPD due to inadequate hardware. The Ministry's Child and Family Protection Services keep records using spreadsheet software that is not linked to the MCPD. Data collection on the enjoyment of rights enshrined in the CRC was also impeded when the Planning, Monitoring and Research Section in the Gender Ministry was absorbed by the Ministry of Health in 2008.

## Dissemination of the Convention

43. In response to the Committee's recommendations, child-friendly pocket size booklet versions of the Convention have been printed in Dhivehi, along with posters, leaflets, and information sheets.[53] These have been disseminated to cover a wide range of places visited by children, including schools libraries, hospitals, and clinics across the entire country. They have also been distributed during celebrations of nationally and internationally marked days such Children's Day and World Day for the Prevention of Child Abuse.[54]

44. The Human Rights Commission has also made great efforts to raise awareness around child rights. A handbook on the CRC, for children, has been produced, printed and was distributed during the course of 2012. Close to 90,000 copies have been printed – one for every child in Maldives. The HRCM has recently organised a very popular human rights quiz on human rights for schools, exploring topics such as the history of human rights, human rights in Islam, and children's rights. The HRCM has, ever since its establishment, marked days dedicated children's rights with civic education events.

[50] Paragraph 24 (b) of the concluding observations, op. cit.
[51] Paragraph 24 (c) of the concluding observations, op. cit.
[52] Paragraph 6 of the concluding observations on the OPSC, op. cit.
[53] Paragraph 26 of the concluding observations, op. cit.
[54] See generally paragraph 159 of the common core document, op. cit.

45. Staff of the Ministry of Gender Family and Human Rights often provide technical information and interviews pertaining to child rights on radio and television programmes. When matters related to child protection arise in the news and in the community, journalists and members of the public turn to the Ministry for comments and clarifications. In 2009, the radio channel, Dhivehi Rajjeyge Adu, in coordination with the Department of Gender and Family Protection Services produced a 26-episode radio programme on child abuse in the Maldives. In addition to this, there were a number of other TV and radio programmes produced to raise awareness around child rights issues.

46. Also in accordance with the Committee's suggestions, information sessions and awareness raising workshops for media officials on child rights, child abuse and neglect were held regularly during the reporting period. Media officials were also sensitized on how to report stories involving children so as to protect their integrity and rights. This has been particularly important given the considerable media interest in cases of child abuse, gang violence, and serious juvenile crime. Trainings have also been provided to moviemakers on appropriate ways of portraying children, women and families in the media. This notwithstanding, details of children, such as the full name, address and photographs, are still occasionally published in the media. It is disappointing every time it happens, and more oversight is needed.

47. Given the public outrage over media reports on child abuse, the Ministry of Gender, Family and Human Rights, has been providing regular updates to the media on facts and statistics surrounding cases reported to the Child and Family Protection Services. It is important that the information provided to the public is accurate and factual, as this is a subject that otherwise can lead to speculation and misunderstandings that are detrimental to the overall effort of protecting children from abuse.

48. The Ministry of Gender, Family, and Human Rights, together with other stakeholders, have continued to conduct targeted and regular trainings for professionals working with and for children, on the provisions and principles of the Convention. Below follows a small sample of such activities:

(a) In 2007, the Ministry of Gender and Family, with assistance from UNICEF, conducted a series of training programmes on preventing child abuse and neglect. The trainings targeted students, parents, media officials, NGOs and professionals working with children. Training of trainer (also known as "ToT") sessions were also conducted for schoolteachers and staff at relevant government offices and NGOs. ToT trainees have since then taken the content and methodology of the training to their own workplaces and further disseminated the skills and information;

(b) The Ministry continuously provides students enrolled in teaching and counselling courses with trainings and information sessions on the CRC, child abuse, gender-based violence and the protection of children;

(c) A programme of training and awareness-raising for government officials on child abuse, sexual assault and domestic violence has been conducted during the reporting period. Twenty-nine sessions were conducted reaching 2,280 local officials and other relevant people including medical practitioners, judges and schoolteachers;[55]

(d) Ministry staff often provide technical assistance and information sessions on the CRC and children's rights in trainings and workshops held by other organisations including the police, schools, and NGOs;

[55] Paragraph 72 of the Replies from the Government of Maldives, op. cit.

(e) Trainings and refresher courses on the CRC and other human rights treaties are held for social workers at FCSCs and other Ministry staff on an annual basis. That notwithstanding, there still remains a significant capacity gap between the demand for interventions to protect children and the availability of appropriately trained staff;[56]

(f) The CRC, its optional protocols and other international human rights standards are now included in the basic training for police officers in the Maldives. This means that, upon graduation, every new police officer in the Maldives now has, not only a fundamental understanding of the provisions and principles of the CRC and its optional protocols, but also clear directives as to what their duties are in terms of upholding those standards in their service;

(g) In addition to this, the Police Service has, since 2008, been offering a mandatory annual course on Family and Child Centred Investigation to all front-line police officers and investigation officers. This is a technical course designed to equip police officers, not only with the knowledge of child rights in theory, but also the very practical skills needed to apply that knowledge in their day-to-day work. While principles such as "always acting in the best interest of the child" are relatively easy to internalise on a theoretical level, the task of actually giving real effect to them, in the often very stressful and challenging work of a police officer, is something quite different. A total of 206 police officers were trained in family and child centred investigation between 2008 and 2010.[57]

49. All these efforts notwithstanding, the Government recognises that more work needs to be done, not just on informing the public about the Convention and its optional protocols, but perhaps more importantly in terms of explaining and assuring the public that there is no conflict between Islam and children's rights. A recent survey by the Human Rights Commission revealed that many people cite children's rights as an example of incompatibility between Islam and human rights.[58] Such misconceptions must be addressed. The Police Service has taken the lead in this respect by training 30 members of its strategic planning directorate on children's rights under Shariah law.

50. While training of professionals working with children has been important, other aspects of human resource management continue to need strengthening. Human error in child protection work can have devastating consequences, and more needs to be done to minimise it and improve accountability. Recommendations to that effect were made by the official inquiry into the death of Baby Nafiu.

## Cooperation with non-governmental organisations

51. The Government humbly recognises the important contribution made by Maldivian civil society in our common effort to implement the Convention. The Government also accepts that not enough has been done to involve and empower civil society organisations (CSOs). Very often these organisations have delivered astonishing results with little or no direct support from the Government. The creation of a new Ministry of Gender, Family and Human Rights, with a fresh mandate to coordinate the implementation of the Convention, represents an opportunity to strengthen the partnership between the Government and civil society in the area of children's rights.

52. While exact statistics on the scope of public-private partnerships are difficult to capture, the Department of Gender and Family Protection Services in 2011 alone signed a

[56] See also UPR report, op. cit. p. 11.
[57] Paragraph 71 of the Replies from the Government of Maldives, op. cit.
[58] *Rights Side of Life – Six Years On*, op. cit. p. 31.

total of 36 Memorandums of Understanding with CSOs. These partnerships will be described in greater detail under the relevant headings of the report. What the report will also show is the extraordinary spirit of social responsibility, generosity, and sheer human compassion that has come to characterise Maldivian civil society in the area of children's rights.

### International cooperation

53. On behalf of all stakeholders in the Maldives, the Government acknowledges the unwavering commitment of our international partners to support our efforts to implement the Convention. The UN continues to be a genuine partner in the work to offer all children in the Maldives greater opportunities and better lives. And in an ever more globalised world, we are equally dependent on our bilateral partners, to successfully address issues such as human trafficking, disease control, or the trade in illicit substances.

54. The Government has not been able to track external funding specifically earmarked for the implementation of the Convention as recommended by the Committee.[59] But generous contributions have been received, from a number of donors, often through the UN, for the purpose of improving education, health, and the protection of children's rights.

55. Maldives plays an active role in the South Asia Initiative to End Violence Against Children (SAIEVAC). SAIEVAC builds on the strong commitments made by all South Asian Regional Cooperation Council (SAARC) member states to prohibit and eliminate all forms of violence against children and to fully implement the recommendations of the UN Study on Violence Against Children in South Asia.

## II. Definition of the child (art. 1 of the Convention)

56. The legal definition of a child in Maldives has been set out in previous reports, and hence this report shall address only the specific concerns raised by the Committee in its concluding observations, relating to (a) the minimum age of criminal responsibility and (b) the minimum age for admission to employment.[60]

57. The Government of Maldives regrets that the proposed Juvenile Justice Bill remains pending. Until it is passed, the assessment of criminal responsibility formally remains what it was when the second and third periodic report was submitted.[61] However, when the Bill becomes law, there will be an irrebuttable presumption that a child, who is under the age of twelve at the time of the alleged offence, is *doli incapax*, that is, incapable of crime.[62]

58. As noted earlier, the Employment Act (2008) tightly regulates the employment of minors by inter alia setting sixteen as the minimum age for employment.[63] The Act further prohibits any person under eighteen years of age from being employed in any way that may have "a detrimental effect on their health, education, safety or conduct."[64]

59. In the second and third combined report, Maldives reported that it had raised the minimum legal age for marriage to 18.[65] A marriage, in which one of the intended spouses

[59] Paragraph 30 of the concluding observations, op. cit.
[60] Paragraphs 31–32 of the concluding observations, op. cit.
[61] See paragraph 116.
[62] Section 3(1) of the Juvenile Justice Bill.
[63] See sections chapter 3, sections 6-12 of the Employment Act 2008, Act No. 2/2008.
[64] Section 7 (a) the Employment Act 2008.
[65] Article 4 (a) of the Family Act.

is under the age of 18, can now only be registered subject to special permission being granted from the Family Court in Malé. Regrettably, there are now some indications that this might have been one factor contributing to an increase in the number of unofficial marriages in the atolls involving children, primarily girls, who are under the age of 18.[66] Children born from such unofficial marriages are unlikely to be registered, as they will be considered to have been born out of wedlock.[67] It is difficult to ascertain just how widespread this problem is, as it is unlikely that people who have entered into unofficial marriages would incriminate themselves by reporting this to the authorities.

# III. General principles (arts. 2, 3, 6 and 12 of the Convention)

## Non-discrimination

60. With reference to the concluding observations on children born out of wedlock, the Government of Maldives would like to reassure the Committee that Islamic law does not seek to discriminate against children born out of wedlock.[68] The Holy Quran, by which all our laws must abide, makes it very clear that "no soul shall bear the burden of another and that a person shall have nothing but what he strives for."[69] Likewise, the Almighty has declared "[t]here were a people who have gone before. They shall have the fruits of what they earned and you shall have the fruits of what you earn, and you will not be asked about what they used to do."[70] This is but a small sample of Quranic verses (there are also many Hadiths)[71] that illustrate the Islamic principle that no person can be held responsible for the faults of another.

61. Thus it follows from these provisions that while sexual intercourse outside of marriage is prohibited by Islamic law (*zina*), and consequently also by Maldivian law, under no circumstances does the law hold the child, who is conceived in such a relationship, accountable for the transgression of his or her parents.[72]

62. To the extent that children born out of wedlock are stigmatized, bullied, or in any other way de facto discriminated against, such practices are unlawful and contrary to our faith. The Government takes this very seriously, and the Department of Gender and Family Protection Services, as well as several civil society organisations have addressed this problem in various awareness raising programmes and advocacy campaigns. The Constitution states, unequivocally, that "[e]very individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law."[73] As the Government is committed to upholding the Constitution, efforts will be intensified, and the situation of children born out of wedlock will be carefully monitored to ensure their full protection.

63. The Committee is correct to point out that a child, born out of wedlock, generally does not take the name of the biological father. However, there are exceptions. The legal principle of *iqraar*, or acknowledgement, does indeed allow a man, whose marriage with

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[66] Paragraph 202 of the common core document, op. cit.

[67] Paragraph 169 of the HRCM Shadow Report, op. cit.

[68] Paragraphs 33-34 of the concluding observations.

[69] Sûrah al-Najm: 38-39.

[70] Sûrah al-Baqarah: 134, 141.

[71] Examples include, inter alia, Musannaf `Abd al-Razzâq (13860, 13861, 13863), Musannaflbn. `AbîShaybah (12543), Ibn `Abd al-Barr, al-Tamhîd (24/135-136) and al-Istidhkâr(23/175).

[72] See e.g. Mahmood, *Principles and Digest of Muslim Law* (1993) pp. 141–147.

[73] Article 20 of the Constitution of the Republic of Maldives.

the mother has not been proved, to pass on his name to the child.[74] There are cases in Maldives in which this principle has been applied. That notwithstanding, the Government recognises that this principle can cause difficulties for children, and will work through its Ministry of Islamic Affairs to find solutions to address this dilemma. As a first step, the requirement that the father's name must appear on ID cards has been abolished for children aged 10 and older, meaning that it is no longer possible to determine from an ID card if a person was born out of wedlock.

64. It is also true that a child born out of wedlock would not generally inherit from the biological father. That notwithstanding, in practise, a father who wishes to let his biological child inherit can do so by making a bequest by will. Islamic Law allows for up to one third of an estate to be passed onto a person who is not an heir. While many families use this option as a way around the current succession law, the Government acknowledges the adverse effect the law can have in cases in which a father fails to transfer property to a child born out of wedlock before his demise. For this reason, and in the spirit of Article 20 of the Constitution (cited above), the Government is committed to ensuring that no child suffers any loss from these provisions and will work with all concerned stakeholders to uphold the interests of every child under the law of succession.[75]

65. The Government of Maldives deeply regrets all forms of discrimination faced by girl children and shares the Committee's disappointment over the persistence of stereotypical attitudes to gender roles.[76] Equality between the sexes is safeguarded in the Constitution, as well as in other legislation, and is enforced through a number of policy initiatives. This has been elaborated upon in much detail in a recent report submitted under the Convention on the Elimination of All Forms of Discrimination against Women (hereafter "CEDAW").[77] But as that report also details, much work remains to be done.

66. The Committee expresses particular concern over the "emerging trend amongst ... religious groups to keep girls out of school."[78] The Government wishes to make it very clear that any attempt to deny a girl an education can *never* be justified in the name of Islam.[79] While there may be people who seek to limit girls' access to education, such attitudes are not only incompatible with Maldivian law, they are also contrary to several fundamental principles of Islam. This is illustrated by the words of the Prophet (peace be upon him) who said: "Be fair and just in terms of the gifts you offer your children. If I were to give preference to any gender over the other I would have preferred females over males."[80] The Ministry of Islamic Affairs will work tirelessly to inform the public about the sacred value of education, and that it is the duty of every Muslim, woman or man, girl or boy, to obtain as much education as ever possible, not only for oneself and one's family, but for the entire community.[81]

67. Much work has been done to "campaign and create awareness among the population of the equality of girls and boys" as recommended by the Committee.[82] The Department of Gender and Family Protection Services has continuously pursued such campaigns, often in partnership with the UN. The various activities are too many to list, and include everything from theatre plays and TV programmes to posters, leaflets and other reading materials.

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[74] See e.g. Rahim, *Principles of Muhammadan Jurisprudence* (1911) p. 343.
[75] Paragraph 39 of the Replies for the Government of Maldives, op. cit.
[76] Paragraphs 35-36 of the concluding observations, op. cit.
[77] Reference: CEDAW/C/MDV/3-4.
[78] Paragraph 35 of the concluding observations, op. cit.
[79] See e.g. Sûrah al-Nahl 57-59.
[80] Hadith reported by al-Bayhaqi.
[81] See e.g. Sûrah al-Zumr 9, Sûrahal-Baqarah 269.
[82] Paragraph 36 of the concluding observations, op. cit.

What has been missing from much of this work is a systematic way of monitoring its effect, and hence it is difficult to determine what impact these awareness-raising efforts have had. Regrettably, there are indications that there has been some degree of regression in terms of attitudes to gender equality.[83]

68. In response to the Committee's call for the promotion of a more "inclusive role [for] women in society,[84] again much has been done. Maldives has recently produced a fresh CEDAW report, which outlines the work done to promote gender equality during the reporting period, and also elaborates on the many challenges and difficulties that remain. One of the highlights is the work to draft a new Gender Equality Act, based on CEDAW.[85] Regrettably, Maldives' human development gender equality index values have deteriorated during the reporting period, from about 0.288 in 2008 to 0.320 in 2011.[86] The World Economic Forum's Gender Gap Index also points to a decline in several critical measurements of gender equality between 2008 and 2011.[87]

69. Children with disabilities continue to face many obstacles, and indeed they remain subject to de facto discrimination. The facts are well documented in the very recent state party report under the Convention on the Rights of Persons with Disabilities (hereafter "CRPD"). Perhaps the most significant development has been the Protection and Financial Assistance to Persons with Disabilities (see paragraph 17 (d) above). The importance of this legislation will be discussed under the heading "children with disabilities" below.[88]

70. Pursuant to the 2010 Act, a registry on persons with disability was established in 2010. The purpose of this registry is to keep a record of all disabled people in the country so that the resources made available to support them can be allocated equitably and in accordance with the provisions of the law. As of December 2010, a total of 3,566 children including 1,587 girls and 1,979 boys were registered in the disability registry and were receiving the benefits they are entitled to under the new law.

71. In terms of follow up to the Durban Declaration of Action and the Committee's general comment No. 2, the Government of Maldives fully agrees that "[r]acism and related phenomena thrive where there is ignorance and unfounded fears of racial, ethnic, religious, cultural and linguistic or other forms of difference..."[89] The Government also recognises the value of education overcoming such ignorance. The Constitution states that "education shall ... foster respect for human rights, and promote understanding, tolerance and friendship among all people."[90] This is also why the new curriculum, which shall be discussed later, is based on values of tolerance and respect for human rights.

72. Maldives is home to a large number of foreigners. About a quarter of the people who live in the Maldives are foreigners, and they are essential to our economy and to our social sector. Our nation's openness is not a new phenomenon; we have welcomed sailors and merchants from all over the world for centuries, and today Maldives is one of the world's most attractive tourist destinations. Our Islamic values demand utmost respect for all fellow human beings, as we are all equal creations of the Almighty.[91]

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[83] *Rights Side of Life – Six Years On*, chapter 9 op. cit.
[84] Paragraph 36 of the concluding observations, op. cit.
[85] Paragraph 25 of the Replies for the Government of Maldives, op. cit.
[86] Table 4: Gender Inequality Index, Human Development report (2001), p. 140.
[87] The Global Gender Gap Report (2011).
[88] See paragraph 156 of this report.
[89] Paragraph 11, general comment No. 1 (CRC/GC/2001/1).
[90] Article 36 (c) of the Constitution, op. cit.
[91] See e.g. Sûrahs Al Hajurat 49:13, and Ar-Rum 30:22.

## Best interests of the child

73. The Government of Maldives acknowledges that the doctrine of best interests of the child is not always fully understood and applied in the Maldives. The 2007 CRC Shadow Report gave some examples of this.[92] While this continues to be a problem, the reporting period has seen efforts to give greater effect to this important doctrine and there is evidence of it being more consistently applied by both the executive branch of Government as well as by the judiciary. The Ministry of Gender, Family and Human Rights carries out best interest determination assessments in court cases, but this is done only in response to requests from the court, and it is not a legal requirement.

74. In response to the Committee's recommendations, the Regulations on Child Fostering and State Custody have been finalized. Both sets of regulations require the best interests of children to be the primary concern when making decisions or when action is taken under the regulations.[93] Likewise, the proposed Child Rights, Child Care and Child Protection Bill contains provisions that seek to better reinforce the doctrine of best interests of the child. The prevailing Family Act also demands that action must be taken in the best interest of the child.[94]

75. The doctrine of the best interest of the child permeates all manuals and guidance notes to staff of the Child and Family Protection Services, and thus the principle is given effect to in their daily work with children and families.[95] The Procedure Manual on Service Delivery, which is the main reference tool for Child and Family Protection Services, states that "[t]he "best interests of the child" is paramount and should underpin all child protection work and resolve any conflicts of interest."[96] Despite the new Procedure Manual, there are recent examples of where the principle has been applied in an inconsistent manner. The Child and Family Protection Service are aware of this, and will work to further strengthen its capacity in this respect.

76. In parallel, the Ministry of Gender, Family, and Human Rights continues to place much emphasis on the doctrine in all its civic education work. Amending a law or adopting a new rule can go relatively quickly, but for the doctrine of best interests of the child to gain full effect, something of a paradigm shift is required in terms of how matters involving children are thought of and adjudicated. Attitudes and habits are often harder to change than laws and rules. Nonetheless, the work to fully implement article 3 of the Convention will go on.

## Right to life, survival, and development

77. Infanticides and cases in which infants have been abandoned are sheer tragedies. The Committee infers that these occurrences are a consequence of "social condemnation of pregnancies out of wedlock." While that may be one plausible explanation, it should be noted that the reasons often vary from case to case.[97]

78. Regrettably, there is nothing suggesting that the situation has improved much during the reporting period. The reproductive health unit of Centre for Community Health and

[92] Paragraphs 170–174 of the NGO Shadow Report, op. cit.
[93] Paragraph 41 of the concluding observations, op. cit.
[94] Section 40(e) of the Family Act (2000).
[95] See generally chapter 8 "Ethical Values" and in particular, section 8.1, "Shared Beliefs" of the Procedure Manual, op. cit.
[96] Section 8.1.1 of the Procedure Manual, op. cit.
[97] Paragraph 42 of the concluding observations, op. cit.

Disease Control (CCHDC) has witnessed "an alarming increase in cases of underage and unplanned pregnancies where some girls are getting pregnant 'without even knowing it'". The unit notes that "these unwanted pregnancies are subsequently resulting in more unsafe abortions, baby dumping or infanticide." In the last two years, three newborns have been found dead, and two abandoned babies were found alive. There might be more cases in which the baby was not found.[98]

79. The Constitution guarantees the right to life,[99] and it places a duty on "the family, the community, and the State ... [to provide] children and young people [with] special protection and special assistance."[100] Based on this, as well our common moral duty towards one another, the Government of Maldives commits itself to rendering any support needed to any childbearing mother, regardless of the circumstances in which the child has been conceived, in order to protect the health of the mother as well as the precious life of the child. In accordance with the Committee's recommendation to provide support to mothers, the Government has introduced the single parent allowance, which is payable to single mothers regardless of whether they were married or not when the child was conceived.[101]

80. The Family Protection Unit (FPU) at the Indira Gandhi Memorial Hospital has continued to offer support, counselling, advice, and medical care to unmarried pregnant women. Between 2005 and 2009, the FPU attended to 121 such cases, in which they provided assistance throughout the pregnancy, during and after birth.[102] The FPU is open to all pregnant women and offers help in a non-judgemental and professional manner. Unfortunately, the valuable services offered by the FPU are only available in Malé.

81. Until now, cases of infanticide and abandonment have largely been handled by law enforcement agencies, given that they involve serious criminal offences. However, the Government acknowledges that this is a phenomenon that demands a multi-pronged approach, in which criminal investigation and prosecution is but one necessary component. The Ministry of Health and Family called for a review of both the legal framework as well current practices, to ensure that women who have unwanted pregnancies can get the help and services they need, without compromising themselves legally.[103] The Ministry has formulated an action plan for the short and long term, which aims to create awareness among citizens and legislators, of the challenges that pregnant women face, be they married or unmarried. Once greater understanding of the situation has been created, effective reforms measures can be designed and implemented.[104]

82. The Committee has expressed concerns over reports of abortions in unhygienic conditions.[105] There is not much data on abortions in the Maldives and the HRCM therefore decided to include questions on knowledge about abortions in a recent survey. They asked respondents whether they knew someone who had gone through an abortion. Nearly a quarter of women and 16.9 percent of men answered in the affirmative – which would appear to indicate a relatively high incidence.[106] A very recent study noted that the "increasing trends in premarital sex, increasing sexual activities due to serial polygamy, sex

[98] "CCHDC backs sex education in schools to combat rising sexual health problems", Minivan News, July 22, 2012.
[99] Article 21 of the Constitution, op. cit.
[100] Article 35 (a) of the Constitution, op. cit.
[101] Paragraph 43 of the concluding observations, op. cit.
[102] A Statistical Analysis, op. cit.
[103] Minivan News, June 26, 2012.
[104] See e.g. Minivan News, October 27, 2011.
[105] Paragraph 42 of the concluding observations, op. cit.
[106] Rights Side of Life, op. cit. p. 39-40.

during inter marriage periods (i.e. between a divorce and remarriage) and poor access and practice of contraception could lead to the occurrence of a large number of unwanted pregnancies around the country."[107] It went on to point out that "high levels of unwanted pregnancies often lead to an increased need for induced abortions ... irrespective of whether [they are] conducted in a safe or unsafe manner."[108] As these arguments appear logical, it can only be assumed that abortions indeed are more common than what is publicly acknowledged. The United Nations Population Fund (UNFPA) has also noted that "the number of women experiencing complications from unsafe abortions is reported to be increasing."[109]

83. Because so little is known about Maldivians seeking abortions, the information about the consequences of abortions is also very limited. While official statistics are lacking, health professionals know that attempted self-induced abortions often have catastrophic implications, including serious injury, permanent physical and psychological damage, and death.[110]

84. The Government wishes to take this opportunity to seek the Committee's guidance on how an Islamic country, like the Maldives, can reconcile, on the one hand, its conviction that sexual relations should be had only between people in matrimony, and on the other, the duty to protect the life and wellbeing of a child who is conceived out of wedlock. Similarly the Government would like to solicit the Committee's views on how best to further help childbearing mothers who find themselves in trouble and who are in need of assistance and support.

## Respect for the views of the child

85. The Committee notes that "general practices in the Maldives do not encourage the freedom of expression of children". This observation, being very unspecific, is difficult to relate to. Freedom of expression is protected under the Constitution.[111] It is also worth noting that the UN Special Rapporteur on the right to freedom of opinion and expression, who visited Maldives in 2009, made no remarks in his official report relating to children's freedom of expression.[112]

86. The HRCM and UNICEF are currently assessing the degree of child participation, as well as the knowledge about the relevant rights. Preliminary findings suggest that there are quite few policy and legislative mechanisms that formally require children's participation in decisions that affect their lives. One exception to that is in custody cases, where the law demands that children must be consulted.[113] Nonetheless, the same study finds that in practice, many professionals working with children are cognisant of the philosophical

[107] Socio Cultural Barriers to Access Abortion in Maldives, pp. 16, 22.

[108] See also Research on reproductive health knowledge and behavior of young unmarried women in the Maldives, UNFPA (2011).

[109] Paragraph 5 of the UNFPA County Programme for Maldives (2011-2015) DP/FPA/CPD/MDV/5.

[110] "CCHDC backs sex education in schools to combat rising sexual health problems", Minivan News, July 22, 2012.

[111] Article 27.

[112] UN Special Rapporteur on the right to freedom of opinion and expression – Visit to Maldives A/HRC/11/4/Add.3 (2009).

[113] Section 44 (b) of the Family Act allows the child to choose the parent with whom the child wants to reside with. As a general measure imposed by Islamic law, Maldivian courts consult the children above the age of 7 in deciding matters of custody.

underpinnings of children's rights to participation and are keen to consult and include children in decision-making processes.[114]

87. While Maldives is a conservative society in which age is respected, the advent of social media, and its very widespread use among young people has opened up hitherto unimaginable opportunities to express oneself. Statistics on this are not collected, but the blogosphere is noticeably vibrant, very many children and young people (probably a majority) are active on social networking sites such as Facebook and Twitter, and there is very little control exercised over any of these means of communication. However, this freedom has also exposed children to new risks. The Society for Health Education reports that they have come across "cyber crime" involving children, including exposure of inappropriate material to children.

88. The Government has also actively encouraged children and young people to express their concerns and anxieties. One recent example is a series of community-based theatre plays, organised by the Ministry of Gender, Family, and Human Rights and UNFPA, in which children set up plays around present day child rights violations, including sexual abuse, violence, neglect, and bullying. In each performance, the play was viewed once, in its entirety. After that, the play was restarted from the beginning, but this second time the audience i.e. the general public, had a chance to interject when they saw something go wrong. The audience then had to suggest what a certain actor ought to do differently. The effect was tremendously powerful, as everyone saw that it was indeed possible to protect children, if all actors just made some quite minor adjustments to their attitudes and behaviour.

89. In many schools visited in the preparation of this report, school management will often seek the input and views of students on everything from codes of conduct to resource prioritisation. While this is not a standard practice in the sense that it is mandatory under for instance a ministerial directive, it is nonetheless a widespread practice among schools in Maldives today.

90. The Committee notes "with concern that a child's right to be heard in judicial proceedings is basically limited to custody cases."[115] Today, children are heard in many types of judicial proceedings that affect them, especially in the Family and Juvenile Courts in Malé. Regrettably, this is still not the norm in all magistrate courts.

# IV. Civil rights and freedoms (arts. 7, 8, 13–17, 19 and 37 (a) of the Convention)

## Birth registration

91. Between 2000 and 2010, 93 percent of all births in urban areas were registered, and the corresponding figure for rural areas was 92 percent.[116] This marks a significant improvement from the previous ten-year period, and it is partly a result of major efforts and campaigns by the Government in cooperation with partners such as UNICEF and UNFPA, to promote birth registration across the country.[117] Yet steps have been taken during the reporting period to further strengthen our system of birth registration.

[114] Children's Rights to Participate (pending publication).
[115] Paragraph 44 of the concluding observations, op. cit.
[116] UNICEF Statistics, these figures match those of the Demographic Health Survey in 2009.
[117] Paragraph 47 of concluding observations, op. cit.

92. A skilled birth attendant assists the vast majority of births in Maldives. Immediately following the birth of a child, the birth attendant will fill out and endorse what is called a "midwife form". This form is then taken to the relevant city or island council where the baby was born, and the council will issue a birth certificate. Failure to register the birth of a baby is an offence and will attract a fine that will escalate with time.[118]

93. During the reporting period, the Child and Family Protection Services have been facilitating the registration of children by (a) helping parents without means to pay fines for late registration; (b) negotiating with the relevant city or island council to reduce the fines, and; (c) to obtain duplicate midwife forms from the Ministry of Health, for children whose original midwife form has been lost.

94. The Committees recommends that children be permitted to access basic services even without official documentation.[119] In response to this, arrangements have been made whereby a council can issue a "birth registration record", which will be accepted in lieu of a birth certificate for purposes of enrolling in school. Vaccinations can be obtained upon the production of a copy of the midwife form, and Protection Services will assist parents to replace lost originals with copies of this form, to ensure that all children can be vaccinated.

95. There is small minority of people in Maldives who have their own interpretations and beliefs, and who claim that those beliefs bar them from registering their children and obtaining birth certificates. It should be reiterated that there is no basis whatsoever, in Islam, for neglecting to register the birth of a child. The Government and its partners will continue to reach out to misinformed parents to guarantee them that registering the birth of a child is not only compatible with Islam, but also encouraged by our faith, as it clearly brings great benefits to the child.

## Freedom of religion

96. Our laws on this topic have been outlined in previous reports and in previous sections of this report. As noted in the recent dialogue with the UN Human Rights Committee, participatory governance demands of us that we take the time to listen to the views and sentiments expressed by people of all walks of life. When the people of Maldives feel that the law on religion in the country must be changed then our laws, indeed the Constitution, will be amended accordingly.[120]

97. In the meantime, the Government of Maldives wishes to reassure the Committee that Maldives remains a tolerant society, not in spite of its Islamic faith, but because of it. Islam demands of us that we show respect for all people, of all faiths and denominations, and it teaches us that the Islamic faith must never be imposed on anyone.[121]

## Freedom of association and peaceful assembly

98. The past year has seen much political turmoil in the Maldives. Children have become ever more involved in the political debate. This is generally not something that is discouraged. But there have been instances in which children have been hurt when violent clashes between demonstrators and law enforcement agencies have arisen. Children have also been arrested for allegedly resorting to violence in demonstrations. The Government of

[118] Article 8 (a) Law on Registration of Births and Deaths, Act No. 7/1992.
[119] Ibid.
[120] Statement by State Minister for Foreign Affairs, Dunya Maumoon at Geneva, July 13th 2012.
[121] See e.g. Sûrahs 2:256, 10:99, 3:30 and 5:99.

Maldives remains committed to freedom of association and peaceful assembly for children, but it is also concerned that children will be put at risk in the relatively polarised political climate that the country is currently experiencing.

99. There are no statistics of associations that children have formed "on their own initiatives."[122] It is also not possible to say how many children are involved in associations. However, the number of active sports clubs has risen rapidly and many children are members of these clubs. Practically every school also has a student association and various clubs for sciences and arts. The Government acknowledges that more should be done to encourage and support such activities.

## Access to information

100. The Government of Maldives finds itself in agreement with the Committee that children need and should have better access to information promoting their social, spiritual and moral well-being. The law stipulates that "special programmes providing useful information and guidance to children shall be included in television and radio programmes."[123] The reporting period has seen considerable growth in the commercial media market. Local TV stations broadcast programming for children, but in addition to that, most Maldivians today have access to a wide array of foreign channels broadcasted digitally from satellites.

101. There has also been radical expansion in access to the Internet, which have provided many opportunities to access information. Maldivian children are generally knowledgeable in the use of the Internet, and are able to access it readily from both computers and phones. Access to information through more conventional means however, such as libraries, has not changed dramatically during the reporting period. Some schools offer good libraries, but many do not, and it is not uncommon for many students to have to share a book or even a photocopy of a book.

## Torture and cruel, inhuman or degrading treatment or punishment

102. The Constitution states that "[n]o person shall be subjected to cruel, inhumane or degrading treatment or punishment, or to torture."[124] The Government is obliged and committed to ensure full respect for this fundamental human right.

103. The Committee has taken note of section 44 (a) of the draft Penal Code, which purports to regulate the use of force in relation to minors.[125] As with all laws, the provision must be read in its entirety, subsections (2) and (3) impose stringent conditions for the use of force against a minor under section 44 (a).

104. Section 44 (a) (2) requires that the force be "necessary to safeguard or promote the welfare of that minor including the prevention or punishment of his misconduct..." This means that the onus will fall upon the person who has used force, and is invoking the section in his or her defence, to show that the force was "necessary to safeguard or promote the welfare of that minor." The word "necessary" is critical, as it means that the defendant, in order to successfully invoke section 44 (a) (2) must prove that force was the only means by which it was possible to "safeguard or promote the welfare" of the minor in question. If

[122] Paragraph 51 of the concluding observations, op. cit.
[123] Article 7, Law on the Protection of Children, Act 9/91.
[124] Article 54 of the Constitution, op. cit.
[125] Paragraph 56 of the concluding observations, op. cit.

the court believes that alternative means could have been resorted to, then force was clearly not necessary, and section 44 (a) (2) will not offer a valid justification. That is a very high standard of proof and it is difficult to imagine many situations in which force is necessary for the purpose of safeguarding or promoting the welfare of a minor.

105. In the presumably rare instances that defendants will be able to show that the force used was necessary in accordance with section 44 (a) (2), they shall then also have to prove that the force did not "create a substantial risk of causing death, serious bodily injury, extreme or unnecessary pain or mental distress, or humiliation..." as per section 44 (a) (3). Again, the standard should be difficult to meet, since the use of force against a minor, by its very nature, almost inevitably will cause some degree of "mental distress" or "humiliation". Thus a provision that appears at first glance to "legalise corporal punishment" (words used by the Committee)[126] does in fact impose conditions on the use of such punishments on children that as so difficult to meet that they are likely to amount to a de facto ban.

106. It should further be noted that section 26 (d) of the Juvenile Justice Bill bars any court from passing a sentence of corporal punishment. It also hinders courts from sentencing children to death, life imprisonment, or labour, and it sets certain standards for the physical treatment of children while in custody.[127]

107. The position under the current law has been set out in previous state party reports. However, to summarise; a child from the age of 10 can be held criminally responsible for certain offences, including *hadd* (plural *hadood*) offences.[128] In practice however, and as noted above, children under the age of 15 are no longer prosecuted. Punishments for *hadood* offences are prescribed in the Holy Quran and in the Sunnah, and include corporal punishment. Corporal punishment can also be ordered in *ta'zir* cases. Thus, under this framework, a person under the age of eighteen, who is found guilty of violating certain provisions of Shariah law, can be sentenced to corporal punishment. In 2010, a total of seven persons, who were under the age of 18 at the time of the offence, were sentenced to lashing. Three of them were sentenced in the Juvenile Court in Malé, while Magistrate's Courts in the atolls sentenced the remaining four.[129] In all seven cases, the actual enforcement of the sentence was delayed until the offender turned 18, and sentences are not enforced in public. The passing of the Special Measures Act (2009) means that the age of consent to sexual intercourse is now 13, with a presumption against consent up to the age of 18. This has reduced the likelihood of children being convicted of *zina* (and other sexual offences not amounting to *zina*), which thus far has been the most common *hadd* and *ta'zir* offences for which children have been convicted.[130]

108. It is also worth noting that in most cases involving *hadd*, the conviction is based on confession. Typically the defendant seeks to repent by confessing and by receiving the prescribed punishment. Given the very high standards of evidence required in a *hadd* case, it is very rare for someone to be convicted in such cases without having confessed to the offence.

109. The Government of Maldives is aware of the Committee's definition of corporal punishment as "any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light."[131] Nonetheless, the Committee should take

[126] Paragraph 55 of the concluding observations, op. cit.

[127] Section 26 (a)-(g).

[128] Article 5 (a) (1)-(5) of the Regulations on Conducting Trials, Investigations and Sentencing Fairly for Offences Committed by Minors (hereafter "Regulations on Juvenile Justice") 2006/XX/MJ.

[129] Justice Sector Statistics 2010, op. cit. p. 88.

[130] See further paragraph 259.

[131] UN Committee on the Rights of the Child (2001), general comment No. 1, paragraph 11.

note that corporal punishment, under Shariah law cannot at all be compared to the whipping occurring under the secular laws of many countries. Under Shariah law, the execution of this sentence is strictly regulated. It must be executed subject to the convicted person being in good health. Women who are menstruating, breastfeeding, or who are pregnant must not receive corporal punishment. When carried out, the executing officer must exercise restraint and keep the upper arm close to the body; he may not raise his hand so high that it moves from his armpit. An imaginary book clutched under his armpit should not drop. The rotan's end is held at the height of the offender's head. The rotan swings downwards with only a movement of the wrist; no more force than what a wrist movement can generate, is permitted. The offender must be fully clothed, the rotan must never strike any bare skin, and no blood can be shed. As any Islamic law jurist will testify to, the purpose of the punishment is not to inflict pain or suffering on the offender, but rather to symbolically express a society's disapproval of the offender's behaviour. A judge must supervise the delivery of the sentence, and ensure that all rules pertaining to it are adhered to. Under Shariah law, an officer who exceeds the limits on the amount force permitted, by for instance using the leverage of his forearm as opposed to merely his wrist, would himself be guilty of an offence.

110. There is currently no legislation that explicitly prohibits corporal punishments in schools. However, the Ministry of Education prohibits use of corporal punishment through policy, and both teachers and principals consulted consider the practice to be banned. In spite of this, there have been a number of incidents of physical abuse of students by teachers during the reporting period. The Ministry of Education acknowledges that there have been lapses in its monitoring of the ban on corporal punishment in schools.[132] If the Education Bill is enacted in its current form, corporal punishment in schools will be prohibited under it.

111. Maldives has identified the actions and measures needed to prohibit all forms of corporal punishment of children in all settings, and an anti-corporal punishment campaign is planned for 2013.[133]

112. During the reporting period there have been at least four instances in which minors, or the families of minors, have alleged mishandling by the Police in conjunction with arrests and investigations. Violence has also been witnessed and experienced by children during the recent political upheavals, either through their families being directly affected, or via images on television. Also children who experience violence in such indirect ways can suffer varying degrees of psychological damage.[134]

113. At the same time the Police have faced a rise in both the amount and the severity of anger and violence directed at them. This will never be an excuse for any disproportional response by the Police, but this is the context in which the Police Service has been operating. The systems for reporting and investigating complaints against the Police, both through internal mechanisms and through the Police Integrity Commission, have thus far proven relatively effective.[135] The Police have been held accountable on numerous occasions, most recently in relation to the policing of the turmoil that ensued after February 7th, 2012.[136] Most of those investigations are still ongoing and thus it is not possible to

[132] Paragraph 44 of the HRCM Shadow Report on the International Covenant on Civil and Political Rights, op. cit.

[133] Paragraph 74 of the of the Replies from the Government of Maldives, op. cit.

[134] See Child Rights International Network (CRIN), Maldives: Entrenching the Culture of Violence Among Children in Paradise, May 15th, 2012.

[135] See e.g. *"Maldives Police Service in 2010: A Snapshot"* Maldives Democracy Network.

[136] For a general outline of Police accountability, see paragraphs 46-57 of the Replies from the

report on the outcome in these cases. Both the Commission of National Inquiry (CONI) and the Maldives Human Rights Commission have made recommendations in this respect, and the Government has committed itself to the full implementation of these recommendations.[137] A total of 11 instances of police misconduct in relation to minors have been reported and investigated between January 2007 and June 2012.

# V. Family environment and alternative care (arts. 5, 18 (1–2), 9–11, 19–21, 25, 27 (4), and 39 of the Convention)

## Parental responsibilities

114. "Strengthening Family Ties" is the title of a full chapter in the Strategic Action Plan, which offers an indication of the prominence these issues have on the Government's agenda. Furthermore, the Constitution demands that "society and the State [provide] special protection [for] the family, being the natural and fundamental unit of society."[138] This is done through, inter alia, the Family Policy, adopted by the then Ministry of Gender and Family, which "expresses the national priority to support the family and to enable it to play a critical role in the development of human capital for the nation."[139]

115. The divorce rates, which the Committee has highlighted, while devastating for many children, are symptoms of a complex set of interwoven social and economic factors. The divorce rate in the Maldives remains very high; it is about three times higher than the average rate in Asia.[140] The reporting period has also seen a further increase in the divorce rate. In 2005 the ratio was about 2.7 marriages for every divorce. That ratio dropped steadily (meaning we got more divorces in relation to marriages) until 2010, when the ratio was 2.2 marriages for every divorce.[141]

116. The factors that are believed to be driving this phenomenon – rapid urbanisation, the decline of traditional livelihoods, and pressures of extremely high population density – have all intensified during the reporting period.[142] Hence, the work by the Government and its partners to try and reverse this trend has been like "attempting to push back a tidal wave."

117. The approach has been four-fold:

(a) Direct efforts to try and help people to strengthen their families and restore harmony. This work has been led by Child and Family Protection Services and has entailed family education, support and training for parents, especially single parents, in parental guidance and joint parental responsibilities. When reports are received of tensions in a family, or when a family seeks help, Child and Family Protection Services will assign professional caseworkers to try and mediate in all cases where there are no signs or allegations of physical abuse or violence;

(b) Efforts to limit the effect that family breakdowns have on children. Protection Services play a critical role in helping to mediate custody, access, and maintenance issues, so as to avoid an often antagonistic and adversarial process before the courts – a process

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Government of Maldives, op. cit.

[137] Report of the Commission of National Inquiry (CONI) (2012) VIII (2), p. 61.

[138] Article 34 (a).

[139] Policy Statement, Family Policy of the Republic of Maldives (2007).

[140] Society at a Glance: Asia Pacific 2011, OECD (2011) pp. 43-45.

[141] Justice Sector Statistics 2010 op. cit. p. 119.

[142] Ibid.

that in many instances can be devastating for a child caught between litigating parents. As mentioned earlier, there are now various support services for single parents, including direct financial support to single headed households. These allowances are designed to mitigate the adverse economic consequences of family breakdowns. Maldivian courts now accept pre-nuptial agreements, which in some instances have been used to protect the economically weaker party (typically the woman) and acknowledge her contribution to the family's assets;[143]

(c) New divorce regulations to control divorce. Men divorcing their wives out of court are fined, and any man wishing to marry more than one woman must prove that he meets the necessary income thresholds;[144]

(d) Every couple that wishes to get married must complete a course on marital responsibilities. The course is designed to prepare young people for marriage and to help avoid future disputes and possible divorces. The Ministry of Gender, Family and Human Rights is about to update the course to include information on new legislation and policies that are intended to strengthen and protect families. The course is currently only offered in Malé.

118. It should be noted that not all couples that divorce have children. In the cases where there are children involved, the effects of these divorces on the children vary considerably from case to case, and they also depend a lot on where the child lives and where the family comes from. In 2010, there were 220 custody cases filed, i.e. a much smaller number than the 2,795 divorce decrees issued.[145] Of course, not all couples that have a child will necessarily bring a custody dispute to court. Nonetheless, the number of custody cases might give an indication of the volume of divorces that entail a serious dispute between the parents over one or several children.

119. Typically, the mother tends to be the economically weaker party, yet, in most cases the children will go on to live with their mother following a divorce.[146] If she lives on the same island as her family, the effects of the divorce on the child could be mitigated by the support of the extended family. If, on the other hand, the mother lives alone, in Malé for instance, and has to rent accommodation, then she will often have to have two jobs and her children may then have to spend much of their time without any parental care or supervision. These are indeed the cases in which children tend to suffer the most.

120. The Civil Service Act 2007 offers support to parents who work for the Government and who wish to take leave to spend time with their children. These provisions have been outlined in the section in new legislation.[147]

121. In 2009, despite high divorce rates, 71 percent of children under the age of 18 were still living in the same household as both of their parents.[148] This apparent paradox can partially be explained by the fact that it is not unusual for a couple to divorce, and to then re-marry with each other. In fact, there are couples that go through several divorces, and end up re-marrying after every divorce. It is thus possible that a significant number of the

[143] Steering Committee Meeting, July 18, 2012 (notes on file).

[144] Paragraph 328 of the Common Core Document, op. cit.

[145] Justice Sector Statistics 2010 op. cit. p. 109.

[146] There is a presumption in favour of the mother assuming custody. The law reads: "[t]he mother of the child shall have a prior right in accordance with this Act to be entrusted with the custody of the child." Section 40 (a) of the Family Law Act 2000, Act 4/2000. It only when the mother does not fulfil certain conditions that she can be denied custody, see Section 40 (b) of the Family Law Act 2000.

[147] Paragraph 22 (c) above.

[148] Demographic Health Survey, op. cit. p. 13.

divorces in the statistics involve couples that remarry once they have settled their dispute. It is often the third divorce that marks the final breakdown of the marriage. There have also been instances in which after the third divorce the woman marries a man other than her former spouse only to divorce and remarry the former spouse. After three divorces, a woman is not allowed to remarry her former spouse until and unless she has married another man and been divorced. Therefore a number of the divorces in the statistics would be instances in which a couple registers a marriage only to immediately divorce in order to facilitate a remarriage with the first husband. Current record keeping and statistics do not reveal how many couples divorce, only to get remarried to each other, within a given timeframe.

122. A dilemma that is coming under increasing scrutiny is that of the many children who leave their homes in the atolls and come to Malé to study. Apart from the suspicions that some of these arrangements might be abusive, there is also a sense among people in Malé that many of these children are not getting the kind of parental guidance and supervision that is needed. This may lead to the children becoming associated with gangs, drugs and other crime. However, there is currently only anecdotal evidence of these links. UNICEF is in the process of conducting an Out of School Survey, which will provide more information on the nature and extent of this problem.

## Alternative and institutional care

123. The Committee's recommendations under this heading have been very helpful and most of them have been implemented.[149] The Regulations on State Custody, which are due to be gazetted, are designed to tightly regulate when and how a child can and must be admitted into state custody. The Regulations on Foster Care will ensure that the placement of children in alternative care is based on meticulous assessments, and that it is done strictly in accordance with the best interests of the child. Together with the new Minimum Standards for Children's Homes, this framework will serve to remove much of the arbitrariness of the old system. It will introduce a higher degree of professionalism in the decision making process, and it will also instil hitherto missing lines of accountability for decisions taken.

124. While the regulations have been delayed, actual practice has already been harmonized, and institutions are expected to act in accordance with the principles of the new regulations, even if they are yet to take effect formally. The Procedure Manual for Service Delivery, which the Child and Family Protection Services and all their staff follow, is based on the proposed legislation and thus also incorporates the recommendations made by the Committee.[150]

125. The placement of children in alternative care is always based on a conscientious assessment of the needs and best interests of the child.[151] Professional and qualified social workers within the Ministry of Gender, Family and Human Rights collect information about the child in question, as well as about all potential foster families who have agreed to accept a foster child.

126. This information is then forwarded to what is referred to as a "foster panel", which is, as suggested by the Committee, made up of a multidisciplinary group of at least seven

[149] Paragraphs 60–61 of the concluding observations, op. cit.

[150] Procedure Manual on the Delivery of Services, Department of Gender and Family Protection Services (2008), revised 2012.

[151] See Chapter 16 "Assessment" of the Procedure Manual, op. cit. and section 2 of the Minimum Standards op. cit.

experts, including a medical doctor, a practicing lawyer, a psychologist, and a representative from the Attorney General's Office.[152] This panel may ask questions and direct further investigations into the circumstances of the child or about any of the potential foster families.

127. Once a decision has been reached, the Attorney General notifies the Family Court of the panel's findings and also gives an overview of its deliberations. The Family Court may then adopt the recommendations in the form of a court order, or reject them if they deem that the panel's recommendations fall short of any legal requirement. Like all other court orders, orders for the placement of children in alternative care can be reviewed by a higher court.[153]

128. Placements are part of an individual action plan, and they are systematically reviewed at least every three months. They can be reviewed more frequently if deemed necessary. After the second review placements are reviewed every six months, unless the circumstances call for more frequent reviews.[154] Informal visits are also made in order for Protections Services to keep abreast with developments. In order to mitigate the economic consequences for families that accept legal guardianship of a child, the Government pays out a foster parent allowance to such families.[155]

129. Due to the severe shortage of space at Kudakudhinge Hiya (which at the time of writing is operating at 120 percent of capacity), institutional care will always be an option of last resort in Maldives.[156] All options, including traditional foster care systems, kafalah, and community based alternative care, will be considered. It is only if these options are not in accordance with a child's best interest, or if they are impossible for some other reason, that institutional care at Kudakudhinge Hiya will be considered.[157] The fact that Kudakudhinge Hiya has to accommodate more children than it is set up for also means that the staff have become overstretched and feel unable to provide as much care and attention to every individual child as they would want to. It is also worth noting that a large portion of the budget for the home (35–40 percent by some estimates) is made up of charitable donations from individuals and corporations.[158]

130. There has been no state care facility for girls aged 9 years and older. However, progress is underway to set up a shelter, which will be able to house girls aged 9–18. For boys aged 9–18, the Educational Training Centre for Children (ETCC) in Maafushi is an option, and although the original purpose of this facility was not to serve as state care home, the ever increasing demand for such services has effectively turned ETCC into home for boys who cannot remain at Kudakudhinge Hiya.

131. Recent research has revealed that the ETCC is in need of reform. Some of the problems that have been highlighted include unclear admission criteria, lack of individual action plans, the degree to which freedom of movement is curtailed, and whether all placements at the ETCC have been based on the best interests of the child in question.[159] There have also been concerns about the quality of the education and rehabilitation services

[152] Paragraph 60 (b) of the concluding observations, op. cit.
[153] Paragraph 60 (c) of the concluding observations, op. cit.
[154] Section 24.2.1 of the Procedure Manual, op. cit.
[155] Social Security Act (2010), article 34 (a)–(d).
[156] Section 2 of the Minimum Standards, op. cit.
[157] Kudakudhinge Hiya has capacity accommodate 45 children, boys and girls, aged 0–9, but at the time of writing it is home to 54 children, and due to the lack of alternatives for older children, it also houses some children older than 9 years of age.
[158] Children's Participation, op. cit. p. 56.
[159] Graveson (2011) op. cit. pp. 33–36.

offered. A recent report summed up with the words "this is not what the law requires nor what the UNCRC envisages."[160] To address these and other issues, the Government is considering shifting the responsibility for managing the ETCC to the Ministry of Gender, Family and Human Rights. This would ensure that the institution is managed in accordance with the Minimum Standards for Children's Homes and the future Regulations on State Custody.

132. Children who are in state care have in some instances faced neglect due to the severe lack of staff. And children do not always get the psychosocial support and nurturing that they require. The work of existing state care homes, as well as that of the FCSCs, is severely hampered by inadequate financial and other resources. The child-to-staff ratio is at times so low that children who are placed in state care are said to actually experience further neglect.[161] The Government is aware of the gravity of this situation and is firmly committed to ensuring that children whose parents are unable to care for them, are given the best alternative care possible.

## Violence, abuse and neglect, maltreatment

133. The Committee "notes with concern that the legal framework fails to provide full protection against sexual abuse and that it also shifts the responsibility on producing evidence to a victim." The Special Measures for Perpetrators of Child Sexual Abuse (2009) has radically sharpened the law in this area. The Act introduced sentences of up to 25 years imprisonment for those convicted of such offences, and denies alleged perpetrators the right to remain silent during the course of investigations.[162] The minimum age at which a child can consent to sex is set at 13,[163] and in cases involving children aged 13 and older, there is a legal presumption that the child did not consent.[164] The Act also provides for a sex offender registry of convicted perpetrators. The act also stipulates that persons convicted under this act may not be pardoned or considered for parole.

134. The Special Measures undeniably represent an improvement of the legal framework. However, challenges remain. In some cases parents of the victim ask for the charges to be withdrawn, as the perpetrator is usually a close relative or a family member. This is more likely to happen when the family is financially dependent on the perpetrator.[165] And even when perpetrators are convicted and sentenced, they will sooner or later be released back into their communities. The lack of victim and witness protection during investigation and trial is another dilemma that is yet to be resolved.[166] In practice, the police and the courts make arrangements that allow witnesses to give evidence without being identified to the defendant or the public.

135. Despite the enactment of the Special Measures legislation, conviction rates for child sexual abuse remain low. There may be many reasons for this. Before the 2009 legislation child sexual abuse could only be proven with the help of a minimum of two credible witnesses. The Special Measures allow new types of evidence to be admissible, including assessments by psychologists and other professionals. Regrettably, the judiciary might not yet have become accustomed to adjudicating cases based on these new types of evidence,

[160] Children's Participation, op. cit. pp. 53–55.
[161] See further UPR report, op. cit., p. 11.
[162] Act No. 12/2009.
[163] Article 24 of the Special Measures Act (2009).
[164] Article 25 of the Special Measures Act (2009).
[165] Paragraph 60 of the Replies for the Government of Maldives, op. cit.
[166] Paragraph 182 of the HRCM Shadow Report, op. cit.

neither is such evidence always effectively collected. An assessment is needed to ascertain how all agencies can work together to ensure that the Special Measures legislation is used to its full potential.

136. A National Study on Violence against Children in the Maldives was commissioned, in accordance with the Committee's recommendations.[167] It was the first large-scale national study on the issue of physical and emotional punishment as well as sexual abuse of children in the Maldives. The survey found that violence against children exists at home, at school and in the community, and some of the statistics are presented in annex I of this report. The Global School Based Health Survey was also conducted in 2009. This report pointed to an escalation in gang related violence, especially in Malé.[168] Gangs are not made up exclusively of children, in fact they are often led and managed by adults, but they do recruit people under 18, and many young people are drawn to gangs.

137. Another critical study conducted in 2007 on violence against women in the Maldives revealed that one in three women between 15 and 49 years old had been subjected to physical violence at least once in their lives. One in nine women reported experiencing severe violence; one in six women in Malé, and one in eight countrywide have experienced childhood sexual abuse when they were younger than 15 years old.[169] That is a lot of violence, and even when children merely witness it, it fosters a generation for which violence, and violence against women in particular, is normal.[170]

138. Considerable efforts have been made to train parents and professionals working with and for children, in identification, reporting and management of child abuse and ill treatment. This has been done in part as a response to the recommendations from the Committee.[171] These efforts have given rise to a rapid increase in the number of cases reported to the CFPS/FCSC.[172] However, the Government remains fully aware that the number of cases reported could be but a fraction of the actual frequency of any particular type of abuse. So while awareness has improved and attitudes have begun to change, it must still be assumed that violence, abuse, and maltreatment of children remains significantly underreported.

139. There are indications that the situation might be deteriorating. In a recent survey, men were asked if they agree with the statement that "they should not hit their wives". In 2011, a total of 50.3 percent said they agreed, whereas in 2005 the figure was 61.5 percent.[173] The fact that violence against women appears to have become more acceptable among men may suggest a similar trend with regards to violence against children.

140. In terms of effective procedures and mechanisms to receive, monitor, and investigate complaints of child rights violations,[174] the Maldives set up the Child and Family Protection Service (CFPS), which is made up of various experts on child and family protection.[175] The CFPS receives reports and depending on the nature of the report, they either take action on

[167] Paragraph 63 (a) of the concluding observations op. cit.
[168] Global School Based Health Survey (2009), p. 27.
[169] The Maldives Study on Women's Health and Life Experiences: Initial Results on Prevalence, Health Outcomes and Women's Responses to Violence (2007).
[170] Maldives CEDAW report provides details on the national response to violence against women, see paragraphs 46–50.
[171] Paragraph 63 (c) of the concluding observations op. cit.
[172] See annex I.
[173] Rights Side of Life, op. cit. pp. 44-46.
[174] Paragraph 63 (d) of the concluding observations op. cit.
[175] The CFPS was set up and housed within what was then the Department of Gender and Family, but it is now part of the new Ministry of Gender, Family, and Human Rights.

their own, or refer the matter to the Family and Child Protection Department (FCPD) of the Police Service, Family Protection Unit (FPU) at the Indira Gandhi Memorial Hospital, other government agencies, or civil society service providers.

141. For each of the 19 atolls, there is a Family and Children's Service Centre (FCSC) that replicates the function of the CFPS in Malé. For each referral, a caseworker is assigned and the matter is entered into a dedicated database. All referrals can be made anonymously and will be kept confidential. The caseworkers will then make an assessment of each case and draw up a Case Management Plan. In urgent cases, the caseworkers can and must initiate immediate home visits.

142. The shortage of trained staff in both the CFPS and the 19 FCSCs is a severely limiting factor. In the Malé CFPS there are only two professional counsellors, who, between them, have a caseload of anywhere between 20 and 25 cases at any given time. This is a considerable caseload, given that many cases are complex and demand much time and undivided attention. There are a total of 14 social workers who cover all of Malé and neighbouring islands, as well as some matters referred to them from the atolls. In the atolls, the situation is even more acute. There is never more than two technical staff members per atoll (sometimes it is only one person), who have to cover the entire atoll, typically made up of dozens of distant islands. There is no administrative staff, so all administrative and budgeting work has to be done by the social workers, taking up time that should have been spent with children and families in need of their services.

143. The FCSCs do not have the facilities nor the staffing levels to adequately fulfil their mandate. Some centres do not even have a permanent structure, and budgets are totally inadequate to meet the needs of clients. Other centres have had to give up their buildings to other institutions. In cases where centres have to take children into state custody, there is typically no appropriate living space for the child or the staff during the search for a foster family and pending decisions from Malé on what steps are to be taken. For the social workers, these factors, along with the very long hours and the human tragedies that they witness on a daily basis, create a considerable amount of stress.

144. In an effort to overcome some of these obstacles, informal Child Protection Groups (CPGs) were formed on some remote islands. These CPGs connect to the formal system on a regular basis. This setup illustrates the important contribution that can be made by island communities in the child protection system in the Maldives.[176]

145. The most commonly reported types of cases are various categories of sexual abuse of children. Out of the 573 cases involving children that the Child and Family Protection Services handled in 2011, 125 cases, or about 22 percent, were sexual abuse cases.[177] Since such cases involve serious criminal offences, the Protection Services work with the Police to investigate them. The Police have a specially trained cadre of officers to investigate cases in which children are either alleged victims or perpetrators.[178]

146. It is unclear how many cases of alleged sexual abuse of minors are dropped for lack of sufficient evidence to press charges, but there is general consensus that the reforms that will take affect with the enactment of the new Evidence Bill will make it easier to successfully prosecute and convict perpetrators of crimes against children.

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[176] See Ali et al. "Developing Child Protection Groups in Remote Island Communities of the Maldives", in Hall (ed.), *Social Work Around the World V: Building the Global Agenda for Social Work and Social Development* (2012) p. 103.

[177] More detailed statistics are presented in annex I.

[178] This has happened partially in response to the recommendations in paragraph 63 (c) of the concluding observations, op. cit.

147. Statistics from the Family Protection Unit (FPU) at the Indira Gandhi Memorial Hospital show that between 2005 and 2009 they attended to 22 cases of rape in which the victim was a girl under 18. Disturbingly, more than half of these cases were cases of gang rape, which entail more violence.[179] About 61 percent of the cases handled by the unit involve children. The trends in the data from the Police and Protection Services are reflected in the data from the FPU as well; sexual abuse is, with a big margin, the most common type of child abuse case reported.[180]

148. For about 10 percent of women in the Maldives, their first sexual experience was either forced or coerced, and generally, the younger the girl is at the time of this first sexual encounter, the more likely it is that she is forced.[181] Tragic as these figures are, they have triggered responses at many levels. The media is diligent in reporting such cases, the public is generally outraged, and taken together, this has put pressure on policy makers to take legislative and other action as outlined above. The HRCM has added further pressure by bringing up the issue of sexual abuse with stakeholders and duty bearers and demanding decisive countermeasures.[182]

149. The Committee recommends, that a "comprehensive national strategy to prevent and respond to domestic violence" be developed.[183] Maldives has recently passed the Domestic Violence Act 2012.[184] Based on this legalisation, stakeholders have come together to develop a strategy for the implementation of this law, and to coordinate the work among each other. Technical assistance and support has been generously provided by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), and a strategy and implementation mechanism is currently being finalised.

150. Child victims of violence and abuse are immediately provided with the necessary health care and psychosocial support services. The professional staff within the Child and Family Protection Services will assess each case on its own merits, and consider various options for supporting both physical and mental recovery in accordance with the manuals and guidelines referred to above. While consultations are important, final recommendations and decisions are always made based on what is in the best interests of the child in question.[185]

151. The limited capacity of the Ministry has helped foster close and strong working relations with a number of civil society organisations, most notably the Society for Health Education, which has been providing excellent services to many children and families in need. The Maldivian Red Crescent (MRC) has been implementing a Violence Prevention programme "Promoting cultures of nonviolence through violence prevention in Maldives" since January 2012.

152. The Government of Maldives and its partners have drawn heavily on the United Nations Study on Violence Against Children, and many of the recommendations offered in that study have been acted upon and implemented.[186] One recent example is the telephone

[179] Family Protection Unit – A Statistical Analysis, IGMH/UNFPA (2010).
[180] Ibid.
[181] Women's Health and Life Experiences, op. cit. p. viii.
[182] Paragraph 16 of the HRCM Shadow Report on the International Covenant on Civil and Political Rights (2012).
[183] Paragraph 63 (b) of the concluding observations.
[184] See paragraph 17 (f) above.
[185] Paragraph 63 (e) of the concluding observations.
[186] Report of the independent expert for the United Nations study on violence against children (A/61/299), paragraphs 94-123.

helpline, which is now operational and has been acknowledged as an international best practice.[187]

153. It is also worth noting the fact that the Maldivian public is taking the issue of abuse, and sexual abuse in particular, very seriously. In 2005, 82.1 percent of respondents considered sexual abuse of girls to be a serious problem in the Maldives, and another 12.2 percent said it was a problem, though not serious. In 2011, the number considering sexual abuse of girls to be a serious problem had risen to 93.3 percent – with just 0.6 percent considering it not to be a problem.[188]

154. In its concluding observations in relation to the Optional Protocol on the involvement of children in armed conflict, the Committee suggests that the Penal Code should include provisions criminalising violations of the provisions of the Optional Protocol.[189] A new Penal Code is currently being drafted and the Committee's recommendations will be carefully considered in that process.

# VI. Basic health and welfare (arts. 6, 18 (3), 23, 24, 26 and 27 (1–3) of the Convention)

## Children with disabilities

155. Disabled persons are protected from discrimination under the Constitution.[190] Furthermore, following the passing of the Disabilities Act (referred to above) in June 2010, the regulation on the Disability Registry was set up in January 2011.[191] This registry serves both as a basis for allocating various forms of support, but it also generates valuable statistical data for purposes of informing policy making and further reform.[192] The registry is still very new, and there are yet many ways in which it can be improved, by for instance cross referencing entries with civil society databases, or by expanding access to other service providers.[193]

156. The 2010 Act also gives children with disabilities legal rights to adequate and standardised social and health services, including early-intervention, psychological and counselling services.[194] Under the law, the state will provide disabled persons (or their families in the case of minors) with a minimum allowance of MVR 2000 per month in financial assistance.[195] All government schools will be required to establish facilities for the disabled; no one shall be denied an education due to a disability. It is worth noting that the Act was passed by an almost unanimous Majlis – out of 53 MPs voting, 52 voted in favour, one abstained. This illustrates the degree of political commitment to the cause.

157. The Law on the Protection of the Rights of Children places a legal obligation on the state to "provide treatment and care for children with mental or physical disabilities" and to

[187] Paragraph 104 of the study on violence against children, ibid.
[188] Rights Side of Life – Six Years On, op. cit. pp. 48-49.
[189] Paragraph 11 (a)-(b) of the concluding observations on OPAC.
[190] Article 17 (a) of the Constitution of the Republic of Maldives.
[191] Act No. 8/2010.
[192] Paragraph 66 (a) of the concluding observations, op. cit.
[193] Paragraph 40 of Maldives' initial report under the Convention on the Rights of Persons with Disabilities (hereafter "the CRPD report").
[194] See paragraphs 12 (a)–(c) and 16 (d) of the 2010 Act. This is in response to paragraph 66 (b) of the concluding observations, op. cit.
[195] Paragraph 105 of the CRPD Report, op. cit.

"enable such children to participate in the activities of the community by providing the special care and assistance."[196] It further states that "parents shall, as appropriate to the means available to them, provide medical care to children who have mental or physical disabilities at birth or thereafter, and shall make efforts to provide functional treatment to and rehabilitate such children."[197] The legal framework for the protection of children with disabilities thus appears to be satisfactory. As with many other good laws, however, there are formidable challenges in implementing it.

158. In accordance with the Committee's recommendations, several surveys of the services available to children with disabilities have been carried out.[198] These surveys have confirmed that persons with disabilities in the Maldives face daily discrimination and prejudice, and perhaps most disturbingly they suggest that many children with disabilities never have an opportunity to leave their home.[199]

159. A draft National Disability Policy has been developed, which stipulates 16 principles that need to be adhered to. These include awareness-raising; access to information and communication; participation of persons with disabilities; and community-based rehabilitation as key cross cutting strategies. It has detailed strategies and policy directions that should be followed in health, education, employment, social security, infrastructure construction, sports and recreation.[200]

160. The Government started setting up special education classes already back in 1984. These classes are delivered in what is referred to as "special education needs units" or "SEN units" and these units have been progressively established in the atoll schools. Currently there are 19 such units across the country.[201] The target is to establish one unit in at least one school in each atoll by 2013. Screening of school-age children for disabilities has been completed in 16 atolls and 2,250 children were identified with disabilities; 230 of them were enrolled in schools in 2009. However, it should be noted that not all the disabled children would have been eligible for schooling.[202]

161. Countrywide there are altogether 19 schools that provide education opportunities for children with different kinds of disabilities. Yet, this is not even nearly enough.[203] The school for children with special needs managed by the Care Society illustrates the challenge; it is operating at the maximum of its current capacity with 45 students enrolled, yet there is a waiting list with 20 names on it, and even more people waiting to even get onto the waiting list. The need to expand such services is obvious. Perhaps the greatest obstacle in scaling up is the lack of technical skills in Maldives.[204] Just to cite some examples; there are no occupational therapists, no developmental physicians, there is only one speech therapist, and one person trained to offer community based rehabilitation – and these are just some of the most urgently needed skills. There are also far too few people trained in providing special education to children with disabilities.

162. UNICEF has supported the delivery of a Diploma Course for special needs teachers at the Faculty of Education.[205] A first batch of graduates recently completed the course

[196] Law 09/1991, Article 6, Chapter I (Duties of the Government).
[197] Law 09/1991, Article 17, Chapter II (Duties of Parents).
[198] Paragraph 66 (c) of the concluding observations, op. cit.
[199] See National UPR Report 2011, p. 8.
[200] Paragraph 66 (d) of the concluding observations, op. cit.
[201] Paragraph 39 of the initial CRPD report, op. cit.
[202] Steering Committee Meeting, July 18, 2012 (notes on file).
[203] Paragraph 36 of the initial CRPD report, op. cit.
[204] Paragraph 38 of the initial CRPD report, op. cit.
[205] UNICEF Annual Report (2010) p. 2.

successfully and obtained their diplomas. The overall feedback from participants in the course was overwhelmingly positive and a second batch of special needs teachers will be admitted.

163. The Community Rehabilitation Programme has continued to make a big difference in the lives of hundreds of disabled people across the country. However, as the programme relies on unpaid volunteers, the turnover has been high and investments in training have in some instances been lost. At times there have been cutbacks in the programme due to dwindling resources. Regrettably, the Government has not been able to provide financial support for the Programme as suggested by the Committee, and it is questionable if the Programme can be sustained without such support.[206]

164. In 2010, the Autism Association of Maldives, a civil society organisation, established the Autism Centre – a school providing highly specialised, intensive and extensive therapy and education programmes tailored to the individual needs of children with autism spectrum disorders. This is the first school of its kind in Maldives. The Centre brings in qualified and experienced autism specialists, from recognised institutions around the world, to design programmes that are then delivered by trained professionals working as full time staff. All enrolled children have access to individual one-to-one therapy sessions as well as group sessions. The school seeks to provide early intervention services, so as to allow children to attend mainstream classes in parallel or upon completing a programme at the Autism Centre. But with only 36 spaces available, and a waiting list of just as many, the demand for these services is far greater than the supply.

165. The availability of the expertise needed to diagnose autism is currently very limited in the Maldives. Thus patients must either travel abroad to get diagnosed or they must wait until the required experts are flown in to conduct temporary clinics where such services are provided. Up until now, the Autism Centre has made such arrangements.

166. The Autism Centre does not receive any direct funding from the Government, and has thus far relied exclusively on generous contributions from individuals and corporations, as well on the spirit of volunteerism of parents and associates. However, in 2011 the Centre began charging a fee of MVR 2,500 for each child enrolled. This amount was agreed upon among parents. This arrangement is possible largely thanks to the disability allowance of MVR 2,000 that families with a disabled child receive in accordance with the Disability Act.[207] This is a financing model that might help sustain other NGOs providing services to disabled children.

167. The Human Rights Commission has reported that "[c]hildren with disabilities experience environmental and social barriers which restrict their ability to participate in normal childhood activities including self-care, play and education."[208] The report goes on to offer examples of such neglect and discrimination. The Government has taken note of these findings and remains determined to improve the situation for children with disabilities. The Disability Council has been mandated under the Disability Act to monitor the quality of services against the National Standards for Service Providers for Persons with Disabilities.

168. As per recommendations from the Committee Maldives ratified the Convention on the Rights of Persons with Disabilities (CRPD) on April 1st 2010.[209] An initial report has

[206] Paragraph 66 (e) of the concluding observations.
[207] See paragraph 156 above.
[208] Baseline Assessment, op. cit. p. 62.
[209] Paragraph 66 (g) of the concluding observations, op. cit.

been produced in accordance with article 35 of the CRPD, which provides further details on the degree to which the rights of disabled persons are upheld in the Maldives.[210]

## Health and health services

169. In response to the Committee's recommendations on health spending,[211] Maldives continued to allocate approximately 9–10 percent of central government expenditures to the health sector.[212] A recently introduced national health insurance scheme will see that figure rise rapidly in 2012.

170. With reference to the Committee's observations on infant and under-five mortality, the reporting period has seen further progress.[213] Nationwide, infant and under-five mortality have been cut in half over the past ten years.[214] Improvements in healthcare delivery and referral services have also resulted in a significant reduction in maternal mortality. [215]

171. As of 2009, over 99 percent of pregnant women in the Maldives received antenatal care from a skilled provider; most of them (92 percent) received antenatal care from a gynaecologist. About 95 percent of women delivered in a health facility.[216]

172. As the Committee has pointed out, one serious threat to children's health in the Maldives is the surprisingly high rates of malnutrition.[217] But unlike in many other countries, the reasons for this appear to have less to do with poverty and more to do with lifestyles. The aggressive advertising of processed foods with a high content of sugar, fats and preservatives, may have contributed to the deteriorating nutritional standards.[218] At the same time, and perhaps not surprisingly given dietary habits described above, overweight and obesity among children has risen. Some 20 percent of Maldivian students consider themselves overweight.[219]

173. Ninety-eight percent of children in Maldives are breastfed, however less than half (47.8 percent) of the children are exclusively breastfed up to 6 months. Various studies have pointed to the low prevalence of exclusive breastfeeding, and inappropriate weaning and feeding practices of infants and children are considered as the major factors contributing to the continued problem of under-nutrition of children in Maldives.[220]

174. Several initiatives have been taken to improve the nutritional status of children in the country. The Committee's recommendations on this matter have been implemented through the National Nutrition Strategic Plan, which was launched in 2007.[221] Under this plan there have been campaigns to increase awareness on exclusive breastfeeding of infants and other

[210] Paragraphs 34–40 of Maldives' Initial Report on the Convention on the Rights of Persons with Disabilities.

[211] Paragraph 68 (a) of the concluding observations, op. cit.

[212] See annex I, table 1 and graph 1 and paragraph 46 of the common core document, op. cit.

[213] Paragraph 68 (b) of the concluding observations, op. cit.

[214] See statistics in annex I.

[215] In 2008, maternal mortality stood at 43 per 100,000 live births, down from 72 in 2005. Maternal mortality ratio has declined from over 400 per 100,000 live births in the early 90s. In 2002, the ratio was 160 per 100,000 live births.

[216] MDHS op. cit. p. 91.

[217] See annex I, table 17.

[218] See also paragraphs 361–336 of the common core document.

[219] GSHS 2009, p. 19.

[220] Press release, "Make breastfeeding easier for mothers", UNICEF, August 1, 2012.

[221] Paragraph 68 (c) of the concluding observations.

practical steps to promote good nutrition. The new curriculum also places great emphasis on leading a healthy lifestyle based on a nutritious diet and regular exercise.[222]

175. Civil society has also taken action. Advocating the Rights of Children (ARC) has, in association with Seagull Foods, a chain of stores known for its high quality locally produced fruits and vegetables, launched the Heal Campaign. This is an ongoing series of events and information materials on what good nutrition is and why it is important. The Heal Campaign also offers recipes and cooking ideas – all geared to helping Maldivian children and their families eat healthier and pursue a more active lifestyle.

176. Regarding access to health care, the National Health Insurance Act 2011 now ensures that a fully state funded universal health insurance programme covers all citizens. The Government of Maldives has also invested in a scheme to subsidise ferry transport both within and between atolls. This scheme now ensures that even the poorest people, if they cannot get the services they need on their home island, can afford to take their children to islands where the necessary health care is available. These measures are partially in response to the Committee's call for greater and equal access to quality primary health care.[223]

177. In response to the Committee's recommendations regarding thalassaemia treatment for children, the Thalassaemia Control Act 2010 was passed. The objectives of the law have been described in the paragraph on legislation.[224] The Act will expand access to thalassaemia treatment in several ways, not least by providing financial assistance to families and other caregivers to meet the high costs of thalassaemia treatment. As pre-natal diagnosis of thalassaemia has not been available in Maldives during the reporting period, the Society for Health Education has been providing support for expectant parents to go abroad for this diagnosis. The registered number of thalassaemia cases increased by about 15 percent during the reporting period,[225] while the rate at which people were screened hovered at around 2,500 persons per year.[226] Thalassaemia remains one of the most serious threats to children's health in the Maldives.

178. Although the data cited above is encouraging, there are some major challenges in the health care system. Maldivians are very unhappy with the health services available. Overall, dissatisfaction levels are highest in relation to hospital services; 69.0 percent of Maldivians are dissatisfied with hospital services. But dissatisfaction with access to health services and medicines (one of the issues highlighted by the Committee) was not far off at 65.5 and 63.7 percent respectively. The same survey shows that Maldivians are less satisfied with health services today than they were in 2005.[227]

179. There are several factors that might have contributed to this discontent. There have been many abrupt policy shifts, the decentralisation of health service providers being one example. This has led to staff being moved around and uncertainty has arisen as to who is in charge of what. The fact that many health professionals are foreign expatriates, who speak little or no Dhivehi, has in some instances led to misunderstandings between health professionals and patients, not least child patients. Many hospitals have provided good interpretation services, but unfortunately not all have.

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[222] *Turning the Key Competencies into Reality*, 4 – Living a Healthy Life, pp. 34–39.

[223] Paragraph 68 (d) of the concluding observations, op. cit.

[224] See paragraph 17 (e) above.

[225] Statistical Yearbook 2011, table 6.9.

[226] Statistical Yearbook 2011, table 6.10.

[227] Rights Side of Life, op. cit. pp. 55–56.

180. One common perception is that recent years have seen radical improvements in access to health care, but with more people using the services, combined with insufficient investments, staff, facilities, and equipment, there is less service for every user of the system. Many people feel that quantity has improved at the expense of quality.

181. Maldives has undoubtedly made enormous progress in the provision of primary health care services. However, when it comes to medical needs that require more specialised skills and equipment, the country faces challenges. One example is congenital heart defects. Failure to correctly diagnose the condition and to get the necessary treatment may cause the baby to die. There is currently no cardiologist based permanently in the Maldives, hence the diagnosis cannot be done in country, nor can the necessary treatment be provided. Many medical conditions, and congenital heart defects are but one example, will require patients to seek medical care overseas. And while the new national health insurance scheme will cover some of the financial costs, also for medical treatment overseas, the delay in getting the proper diagnosis and treatment can and does cause the death of unknown numbers of children. Out of all Maldivians who travelled abroad in 2009–2010, 74 percent did so for purposes of seeking medical care.[228]

182. Again this is an area in which Maldivian civil society has demonstrated enormous commitment and solidarity. Tiny Hearts of Maldives, an NGO founded by the parents of a boy who lost his life to congenital heart defects, has helped hundreds of children, born and unborn, to be diagnosed and treated for the condition. They partner with medical professionals in India, who come to Maldives on a volunteer basis to perform foetal echocardiography, diagnosing the condition prior to birth, and thus saving many precious lives.

## Adolescent health

183. The Committee recommended a "national study [on] adolescents' sexual development [and] behaviours..." to inform the provision of appropriate services.[229] A comprehensive study, entitled "Reproductive and Sexual Health of Adolescents in the Maldives" was conducted in 2003 and another, "Reproductive health knowledge and behaviour of young unmarried women in the Maldives", was completed in 2010, both with the support of UNFPA. A Biological and Behavioural Survey was conducted in 2008, with support from the Global Fund and the United Nations Development Programme. In 2009, the Global School-Based Health Survey came out with further valuable information around the health of adolescents.

184. Commenting on these and other studies, the CCHDC, which is a department within the Ministry of Health, has noted that "age appropriate sexual and reproductive health education needs to be taught in schools to combat the increasing 'sexual health illnesses' in the Maldives." The reporting period has seen "heightening figures on sexually transmitted diseases" and the Government acknowledges that the "current school curriculum provides little to no information about reproductive health, leaving adolescents and youth unguarded and vulnerable."[230]

185. In response to these findings, a wide range of initiatives have been taken to promote adolescent health, including sex and reproductive health education in schools, in clinics, and in youth kiosks. Again, the contribution of the Maldivian civil society, as well as our

[228] Household Income and Expenditure Survey, 2009–2010.

[229] Paragraph 70 (a) of the concluding observations, op. cit.

[230] "CCHDC backs sex education in schools to combat rising sexual health problems", Minivan News, July 22, 2012.

international partners, most notably the UN family, should be duly acknowledged. Maldives being a socially conservative society, Government has often found it difficult to take a leadership role in promoting sex education and reproductive health, and hence the ability of civil society to fill that gap must be commended. The HRCM is currently conducting research on attitudes to reproductive health education, and preliminary findings suggest overwhelming support for more and better reproductive health education in schools, but also in society at large, targeting parents and families as well.[231]

186. Output 2 (c) of the UNFPA Country Programme 2011–2015 is "strengthening the capacity of the health sector to provide youth-friendly health and reproductive health services … including through school health settings."[232] And to deliver that, the Ministry of Health, in collaboration with UNFPA, is currently developing and drafting of a national reproductive health strategy. The new curriculum will also cover a number of topics related to reproductive health in an integrated way.[233] However, it should be noted that there are many people in the Maldives who feel that this will increase promiscuity, and hence remain deeply opposed to sex education in schools.[234]

187. There are indications that the mental health of children and young people in Maldives is deteriorating. A 2009 survey shockingly revealed that 22.2 percent of students in Maldives had made a plan for how they would attempt suicide during the past 12 months.[235] The same survey offered a number of other alarming statistics with regard to mental health of children and young people. Many professionals believe there are strong links between the mental health of young people, the escalating use of narcotics, the increase in violence, and the prevalence of high risk sexual behaviour patterns.[236]

188. Partially in response to these findings the cabinet developed a national policy on mental health. Among the policy's main objectives are improving accessibility to mental rehabilitation programmes; decentralising services for medical and psychological health; and providing sufficient financial support to the mental health sector.[237] Counselling services provided by both civil society organisations and the Ministry of Gender, Health and Human Rights will become ever more critical.

189. Civil society has also been quick to react. One example is the "Youth Health and Well Being" pilot project, implemented by the Maldivian Red Crescent, which seeks to adapt successful approaches from Australia (Save a Mate and Talk Out Loud) in the Maldives. Through the use of training, peer education, educational workshops and health promotion initiatives, the project aims to build the resilience of young people and promote early intervention with regards to mental health, safety and well-being.

## HIV/AIDS

190. Before 2008, the only data available on HIV in the Maldives came from case reporting. The Biological and Behavioural Survey (BBS) provided important statistical evidence of reported risk behaviours, knowledge of HIV, and perceived risks among most-

[231] Steering Committee Meeting, July 18, 2012 (notes on file).
[232] Paragraph 17 of the UNFPA CPD, op. cit.
[233] Section 4.1 Living a Healthy Life, Turning the Key Competencies into reality: a practical guide, p. 34.
[234] "CCHDC backs sex education in schools to combat rising sexual health problems", Minivan News, July 22, 2012.
[235] GSHS survey, op. cit. p. 36
[236] Paragraph 180 of the CEDAW report, op. cit.
[237] "Cabinet backs national mental health policy", reported in Minivan News, January 31, 2012.

at-risk populations and vulnerable groups, including the large migrant worker population. In 2011, the country also completed its first mapping and size estimation of the most-at-risk populations, which will allow the Government and its partners to develop a more focused national response.

191. The Government and its partners continue to support a number of civil society organisations to conduct activities with at-risk groups in an atmosphere of trust and security. Voluntary counselling and testing (VCT) services are available from the Ministry of Human Resources, Youth and Sports (the Youth Health Café and the Youth Centre) as well as the Society for Health Education. These services are provided to everyone who seeks them, regardless of age or marital status. Counselling services are also available in some schools. In addition, migrant workers are provided with information materials printed in a number of different languages.

192. While these efforts are truly helpful to many young people, more needs to be done. About 70 percent of Maldivian youth have some knowledge about HIV.[238] Yet the relatively low risk perceptions, low rates of condom use, and the prevalence of high-risk behaviour – all of which were discovered through the BBS – suggest that the knowledge seldom translates into changes in behaviour.[239] The relatively limited access to family planning services for unmarried youth, combined with the increasing sexual activity among adolescents, continues to present a major dilemma for policy makers.[240] The stigma surrounding HIV has been reduced to some degree by awareness-raising work, but is still a factor that inhibits many people from getting a test. There are anecdotes of Maldivians who prefer to travel abroad to get tested and access treatment in order to minimise the risk of their status becoming known at home.

193. As of December 2011, a total of 15 HIV/AIDS cases among Maldivians, and 289 among expatriate workers, had been reported. This is, by any comparative standards, an exceptionally low rate. However, this cannot be accepted as the actual number of people in the Maldives who carry the virus. The high-risk behaviour patterns described above, in combination with the stigma and misconceptions that prevail, suggest that the true number of HIV positive people might be much higher than the official number.

## Standard of living

194. The Maldivian economy has continued to grow, albeit erratically, during the reporting period, and so have both GDP per capita figures and household incomes. As the Committee has rightly observed, it is the inequality in how this new wealth is distributed, not just between regions, but also between people within the same region, that poses the main threat to social harmony.[241] The fact that, despite the wealth our nation has been blessed with, there are still children who have not had their basic material needs met, is of grave concern to the Government and to all Maldivians.

195. In response to this situation, and in accordance with the Committee's suggestions, Maldives has embarked on an historical and comprehensive reform process to transform the nation into a welfare state. We have sought to build a state in which every child is offered a chance to reach their fullest potential, regardless of their parents' ability to pay. This has not only been a political ambition, it has also been a process driven by the desire to realise the equality and social justice that characterises a truly Islamic state.

[238] BBS, op. cit. p. 60.
[239] BBS, p. 40, 62.
[240] Family planning information is provided through youth health kiosks.
[241] Paragraph 73 of the concluding observations, op. cit.

196. While there have been many obstacles and challenges Maldives has made enormous progress in building its welfare state. Universal state funded health insurance has been delivered, meaning that every child and every family now enjoys free health care. Allowance schemes have been set up to support the poorest among us, ensuring that every Maldivian family can live in dignity. A special welfare fund has been established, largely with the help of the generous *Zakath* donations that Maldivians make every year. Financial barriers to education have been removed. Financial support for single parents, families with disabled children, and other vulnerable families, has been introduced. The Committee will find that all these measures reflect its recommendations on improving standards of living.[242]

197. The Committee further recommended that Maldives "increase its annual expenditure on safety net programmes … target[ing] the most vulnerable groups."[243] As the statistics in annex I shows, the annual expenditure on such programmes has practically exploded.

198. In its concluding observations, the Committee expressed "concern about the wide regional disparities in income levels". The latest statistics however show that poverty in the Atolls declined between 2003 and 2010, whilst an opposite trend can be observed in Malé. In other words, while the country as a whole has seen a reduction in inequality, mainly driven by the improved situation in Atolls, inequality within Malé has widened.[244]

199. In an effort to iron out inequalities between atolls, a whole new nationwide state subsidised ferry transport system has been set up which connects remoter islands (which tend to be poorer) to markets and services. The ferry system is designed so that journeys from remoter islands are more subsidised. Atolls also receive greater electricity subsidies, and measures have been taken to allow people in the atolls to benefit more from the lucrative tourist industry.

200. National development efforts have sought to mitigate economic and social vulnerabilities, particularly among women and youth. This has included strengthening community livelihoods, entrepreneurship development, and policy level initiatives that support affordable housing, trade and employment.

# VII. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

## Education, including vocational training and guidance

201. The Constitution states that "[e]veryone has the right to education without discrimination of any kind."[245] Government expenditure on education, which the Committee has commented on, has increased over the reporting period.[246] In 2011 the Government of Maldives spent MVR 1.7 billion, or 8.1 percent of its GDP, on public education. That is the highest proportion of GDP spent on public education throughout the Asia/Pacific region.[247]

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[242] Paragraph74 (b) of the concluding observations, op. cit.

[243] Paragraph 74 (c) of the concluding observations, op. cit.

[244] Household Income and Expenditure Survey, 2009–2010.

[245] Article 36 (a) of the Constitution of the Republic of Maldives.

[246] Paragraph 78 of the concluding observations, op. cit.

[247] Society at a Glance: Asia/Pacific 2011, OECD (2011) p. 59. About 70% of the education budget goes towards wages.

202. The Education Bill has not yet been enacted. As of June 2012, Parliamentary Sub-Committee II of the Committee on National Development was considering it. That notwithstanding, the Ministry of Education and its partners have proceeded to give effect to many provisions of the Education Bill, through policy, in anticipation that it will become law.

203. In accordance with the Committee's recommendations, the Education Bill will, when enacted, introduce compulsory education up to grade 10, i.e. beyond seven years of primary school.[248] But rather than just accept this delay in implementing the Committee's recommendations, the Government has opted to enforce compulsory education in practice through policy directives.[249] This has been reflected in enrolment rates all the way up to grade 10.

204. Regarding the financial obstacles to education that the Committee brings up, much has changed during the reporting period.[250] Schooling from first to twelfth grade is now free in public schools. There are no tuition fees, and books and stationeries are provided for free.[251] The Government also pays for exam fees. The only cost that families may have to incur is for the school uniform. However, families with low incomes can apply to the Education Trust to get the school uniforms for free as well. Lack of money, in and of itself, is no longer a significant barrier to education in the Maldives.

205. The Ministry of Education has recently conducted a revision of the school curriculum, including a gender review.[252] The current textbooks are old, and hence they reflect ideas and attitudes that are outdated. In fact, some teachers already rely more on Internet research and other sources to support their teaching. Therefore new teaching materials are being developed, which (a) are in conformity with the new curriculum and (b) correspond to the values enshrined in our Constitution, which obviously includes gender equality. The new teaching materials will therefore be gender neutral. The new curriculum is presently being rolled out on a pilot basis. Teachers and Principals have undergone gender training organised by what was then the Ministry of Gender and Family as well as by the Teacher Resource Centres.

206. The Government has, in accordance with the Committee's recommendations, continued its efforts to expand access to secondary education. By 2010 a lower secondary school (grades 8–10) had been established on every inhabited island, except for five islands that have fewer than 70 students. For these students there is a daily ferry service to a secondary school on a nearby island and a "schooling away from home" allowance is available for those in need of it.[253] This has improved access to schooling beyond primary education, particularly for girls whose parents might not have wanted them to move away from the home island to attend secondary school.[254]

207. The Government is pleased to report that these investments have yielded returns, with over 80 percent of students now progressing to the secondary level.[255] The Committee expressed particular concern over "the full participation of girls in education, particularly in

[248] Paragraph 78 (a) of the concluding observations, op. cit.
[249] Paragraph 38 common core document, op. cit.
[250] Paragraph 78 (b) of the concluding observations, op. cit.
[251] Paragraph 42 of the common core document, op. cit.
[252] The draft National Curriculum Framework was presented to the Cabinet on 10th January 2012, and has been discussed with cabinet ministers at a further meeting held on 22nd January 2012. Further discussions are expected before the framework gets the final endorsement by the Cabinet.
[253] As of August 2012, 911 students were benefiting from this allowance.
[254] US State Department Annual Human Rights Report (2011).
[255] Statistical Yearbook 2011, table 7.6.

secondary schools." In response to this, it is worth noting that the net enrolment rate for girls in secondary school has increased quite significantly during the reporting period; from 73.5 percent in 2007 (beginning of reporting period) to 86.5 percent in 2011.[256]

208. Access to higher secondary education (grades 11 and 12) has improved too. In 2011, there were 38 higher secondary schools; at least one in each atoll except for two, and five in Malé. Here girls' net enrolment has seen an even bigger leap. In 2007 girls' net enrolment rate in higher secondary was 2.8 percent. In 2011 it had reached 16.4 percent.[257] The proportion of girls in higher secondary education continued to hover slightly below the ideal 50 percent mark.[258] This has been analysed in great detail in the Maldives 2012 CEDAW report. But then, in 2011, for the first time ever, there were more girls enrolled in higher secondary than boys, with girls making up some 52.5 percent of all students enrolled in grades eleven and twelve.[259]

209. The ordinary level (0-level) pass rates (at the completion of grade 10) hover at around 35 percent for those who opt to take the examination, and there is a significant gap between the pass rate in Malé (54 percent in 2010) and in the atolls (28 percent).[260] Another concern is the dropout rate in grade seven. Boys are much more likely to drop out of school at grade seven than girls are, and boys who have not even finished primary school will have very little employment opportunities, leaving them potentially vulnerable to drugs and crime.[261] Statistics from the JJU suggest a strong correlation between dropping out of school and juvenile offending.[262]

210. As noted by the Committee, sanitation facilities for girls are important for purposes of ensuring equal access to schools.[263] During the reporting period Maldives produced guidelines for water, sanitation and hygiene promotion in schools, based on World Health Organization (WHO) standards, and these guidelines demand that every school provide appropriate and separate sanitation facilities for girls.[264] These measures have been implemented across the country, and most schools now have separate sanitation facilities for girls and boys. In accordance with the guidelines there should be one toilet for every 40 girls and one for every 50 boys, however by the end of 2011, the sanitary facilities in 58 schools were in need of extensive repairs or replacement.[265]

211. Despite these efforts, surveys show that people, by and large, are dissatisfied with the education system and its schools. It is only in urban areas and in the Southern Province where the proportion of people who say they are satisfied with the system exceeds the proportion that says they are dissatisfied. Elsewhere, satisfaction levels range from 36.8 percent in the Central Province to just 9.5 percent of respondents in the North Central Province. Most of the complaints relate to the competency of teachers and principals, and various aspects of quality. Table 21 in annex I outlines the survey results. The issue of quality of education is discussed below.[266]

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256 Education Statistics Book (2011), p. 5.

257 Ibid.

258 See table 20 in annex I which also presents the full dataset.

259 Ibid.

260 Statistical Yearbook 2011, table 7.17.

261 See table 23 in annex I.

262 Statistics from JJU (2012) on file.

263 Paragraph 77 and 78 (c) of the concluding observations, op. cit.

264 Guidelines for water, sanitation and hygiene promotion in schools, report of a regional consultation, WHO (2009), pp. 18-19.

265 UNICEF Survey Fact Sheet (on file).

266 See paragraphs 196–197.

212. The Government has, in accordance with the Committee's recommendations, made considerable investments in vocational training in order to meet the nation's demand for technical skills.[267] A key component of this agenda has been the introduction of competency-based training packages, and an integrated set of national qualifications based on the Australian Qualifications Framework. Under the Technical and Vocational Education and Training (TVET) Division within the Ministry of Human Resources, Youth and Sports, the national TVET system has been established, and technical and vocational training is ongoing.[268] As of 2011, over 6000 people had graduated from the TVET.

213. Consultations for this report has shown a consensus, not only among people working in the education system, but also among social workers, police and others, that there is an urgent need to offer children and young people more and better vocational training opportunities. Today, the employment opportunities open for school leavers are far too limited. This has given rise to a large number of unemployed young persons who, apart from not being economically productive, also become more prone to drug use, gang activities, crime and political extremism. The then National Narcotics Control Bureau (now National Drugs Agency, NDA) noted that "[m]ost students leaving school have neither job skills nor employment opportunities."[269] They identified this group as particularly vulnerable to be drawn to drugs. This is something that education professionals have found too, and hence many secondary schools have in fact begun to offer vocational training at their own initiative.

214. The Committee has advised that Maldives "find ways and methods to discipline children with other means than excluding them from school".[270] There is obviously a wide range of different disciplinary measures that can be taken, and expulsion is always a measure of last resort that is used only when the student in question poses a direct threat to other students and/or staff. Disciplinary measures are regulated in the Handbook on Rules and Regulations in Schools in Maldives and the Disciplinary Guidelines contained therein. It is clearly stipulated that no school can expel any student without the approval of the Ministry of Education. Expulsions have thus become fewer and further in-between and many students continued schooling, even after having been convicted of criminal offences. Keeping such students in school has not been entirely unproblematic as their behaviour often disrupts studies for other students.

215. According to the applicable Disciplinary Guidelines, girls who become pregnant while enrolled in a Government school must be expelled. Typically, however, school-aged girls who become pregnant will often leave school without being formally expelled, due to social pressure and the fear of being bullied or harassed. There is a clear gender dimension to this, since the risk of being expelled or forced out of school due to pregnancy only affects girls.

216. Teachers consulted during the preparation of this state party report all point to worsening disciplinary problems in schools across the country. Most teachers cite factors such as lack of parental supervision, inadequate upbringing, and ineffective disciplinary measures that schools can take in response to breaches of the code of conduct. Many teachers also feel that the loss of respect for the teaching profession in Maldives has made it harder for them to maintain order in their classrooms.

[267] Paragraph 78 (e) of the concluding observations, op. cit.
[268] See further paragraphs 344-345 of the common core document, op. cit.
[269] National Drug Control Master Plan, op. cit. p. 13.
[270] Paragraph 78 (f) (i) of the concluding observations, op. cit.

217. The Committee encouraged Maldives to formalize the status of pre-primary school education and to provide access to early childhood education for every child.[271] In July 2012 the Pre-School Act came into force.[272] The law stipulates that the Government must provide adequate pre-schooling and assistance to parents and children to ensure that all children receive pre-school education, regardless of class or economic background. The Act also demands that there should be at least one pre-school in every inhabited island.[273] This target has been achieved.

218. In accordance with the Committee's general comment No. 7 on implementing child rights in early education, the Act emphasises the mental development of children and teaching children social norms, emotions and ways of expressing themselves.[274] Pre-school teachers training will be standardised in the form of a diploma course, and the new curriculum will cover pre-school education. In 2010, 17,623 children were enrolled in preschool,[275] representing an 18.7 percent increase in preschool enrolment during the reporting period.[276]

219. Until now, early childhood education has, to a large extent, depended on the dedication and goodwill of pre-school mangers and teachers. Government funding has thus far only covered a small portion of operating costs for most schools. And in rural areas, many parents have been unable to pay the MVR 100 that most pre-schools charge. Hence, teachers in pre-schools have been working more or less on a volunteer basis, as it has been rare for any child to be expelled from pre-school for not paying the fees. Taking this into account, the near 100 percent pre-school enrolment rate is a remarkable achievement and yet another testament to the spirit of altruism prevailing in Maldivian civil society.

## Aims of education

220. The Committee is correct in its observation that the quality of education in Maldives often does not live up to expectations.[277] The Government takes this very seriously. In addition to the many untrained teachers, to which the Committee makes reference, the Ministry of Education has found that even the teachers with advanced certificates often need further training.

221. To tackle this dilemma, three days per academic year have been set aside for school based professional education. Further opportunities are being offered through the Professional Development Unit at the Centre for Continued Education (CCE), which facilitates peer learning by organising teachers' conferences. The materials and exchanges can also be accessed through social media and a weblog. The number of trainings, workshops and capacity development events have increased considerably in recent years, as evidenced by the many adverts and posts on the CCE website.[278] For teachers who wish to take on longer periods of full time study, the Ministry of Education has an agreement with the Bank of Maldives whereby loans are provided to teachers on very favourable terms. Many of these initiatives are relatively recent, but it is hoped that they will yield practical results for students in the near future.

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[271] Paragraph 80 of the concluding observations, op. cit.
[272] Act No. 1/2012.
[273] Article 4(a) of the Act.
[274] General comment No. 7 on the CRC (CRC/C/GC/7).
[275] Statistical Yearbook 2011, table 7.2.
[276] Statistical Yearbook 2008, table 7.2.
[277] Paragraph 80 (a) of the concluding observations, op. cit.
[278] See http://www.cce.edu.mv.

222. The Government of Maldives agrees that teachers should have, in the words of the Committee "a decent living wage".[279] In Maldives, teachers are part of the civil service and their wages are assessed in the same way as for all other civil servants. A teacher with a degree earns MVR 8,795 gross per month including allowances, and a teacher with a diploma earns MVR 8,110 gross. For some context, it can be noted that the average civil service salary in 2011 was MVR 7,035 per month.[280] While it would be desirable to increase wages, the current fiscal climate and the urgent need to reduce the budget deficit means it is unlikely that there will be room for any public sector wage increases in the near future.

223. With the support of UNICEF, and as part of the policy of building back better after the 2004 tsunami, many schools have undergone a child friendly transformation. The shift has taken place on many levels:

(a) Teachers have received training in child-friendly techniques at the Teacher Resource Centres. These centres have also begun to offer some of the latest in high-tech teaching tools, such as interactive smart boards and broadband internet access, to keep teachers and students motivated and inspired;

(b) Classes are planned and delivered to be interactive, spontaneous and fun. The emphasis is on letting children discover knowledge in a way that is exciting and keeps them engaged;

(c) The learning environment is both stimulating and secure. This means that all the necessary tools and equipment is available, but also that there is drinking water and proper sanitation facilities; and

(d) All stakeholders are accountable through the Quality Indicators for Child-friendly Baraabaru Schools.

224. With reference to the Committee's observation that human rights education is not part of the curriculum, it should be noted that there are human rights education programmes in Maldivian schools.[281] The curriculum has recently undergone a review, and human rights education will form an integral part of the new curriculum. Human Rights, Democracy, and Justice are in fact key principles underpinning the curriculum.[282]

225. In its concluding observations in relation to children in armed conflict, the Committee also notes "with regret that peace education is not included in the school curricula" and recommends it to be introduced.[283] The new curriculum is value based, and it seeks to promote values of peaceful coexistence at home, in the community and internationally.[284] Furthermore, the teaching of Islam features prominently in the curriculum and is one of only two subjects that are mandatory throughout all 12 grades. Peace is a fundamental value of Islam. So much so that the very term "Islam" shares the same root with the word *salaam*, meaning "peace" in Arabic. Islam is a quest for peace with God, with humanity, and with oneself.[285]

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[279] Paragraph 82 (b) of the concluding observations, op. cit.

[280] Civil Service Commission, Civil Service Statistics, June 2011.

[281] Paragraph 9 of the Concluding Observations on the OPAC, op. cit, paragraphs 81 and 82 (c) of the Concluding Observations, op. cit.

[282] See Annex II – Map of the National Curriculum.

[283] Paragraphs 8 – 9 of the concluding observations on the OPAC.

[284] See Annex II – Map of the National Curriculum.

[285] For a summary of verses from the Quran and the Sunnah, see Wattles, *The Golden Rule* (1996) 4, 191-192, Questia, 24 July 2007.

### Leisure, recreation and cultural activities

226. Play should not be a luxury. Apart from being fun and rejuvenating, it can be a tool for education and it can promote health. Yet, in Maldives not enough has been done to harness the potential of leisure and recreation.

227. Malé is one of the world's most densely populated cities. Traffic is fierce; there is very little open space, and a lot of concrete. Children spend a lot of their free time indoors playing computer games and watching TV. During the reporting period, investments have been made in building playgrounds in Malé and creating spaces free from traffic where children can play (see paragraph on safe play areas below). There are also a number of new sports facilities, all of which are well used by the city's children and youth. While these efforts have made a difference, the fact remains that when over 100,000 people have to live on less than 6 km2, it is unlikely to become an ideal environment for a child to grow up in. As the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, has noted, the lack of appropriate places to play exposes children to criminality and drugs.[286]

228. Life in the atolls is very different, and in many respects far more child friendly. For children in the atolls, the beach or the football pitch tends to be where they spend their free time. A survey from 2009 showed that in the atolls, about 58 percent of school students had played some kind of sport during the past 7 days. The corresponding figure for Malé was 44 percent. There was a big discrepancy between the proportion of boys who had played sports (68 percent in the atolls and 61 percent in Malé) and the girls (47 percent in the atolls and only 29 percent in Malé).[287]

229. The Ministry of Gender and Family spearheaded an initiative to establish so called safe play areas all around Maldives. These are carefully planned locations with limited exposure to hazards such as traffic, agricultural production and environmental concerns. With effective adult supervision, safe play activities allow children to experience physical, emotional, social and intellectual development. An ideal play area blends activities matched to the developmental stages and abilities of children. More such safe play areas are needed.

## VIII. Special protection measures (arts. 22, 38, 39, 40, 37 (b)-(d), 32–36 and 30 of the Convention)

### Economic exploitation, including child labour

230. As noted earlier, and in response to the Committee's recommendations, child labour is now regulated under the Employment Act (2008) and Maldives has also become a member of ILO.[288] The new law applies to both the formal and informal sectors. It also establishes a Labour Relations Authority and a labour inspection system to enforce the law and to prevent children from being engaged in exploitative work.[289] These provisions have ensured that the Committee's recommendations have been implemented.[290]

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[286] Paragraph 46, UN Special Rapporteur on adequate housing – Visit to Maldives, A/HRC/13/20/Add.3 (2010).

[287] GSHS Report (2009) op. cit. p. 57.

[288] Paragraph 87 (a) of the concluding observations, ibid.

[289] Article 79 of the Employment Act (2011).

[290] Paragraph 87 (b)-(c) of the concluding observations.

231. The Employment Act states that "[m]inors under the age of sixteen years who participate in the family's line of work of their own will shall be exempted from this principle [of 16 being the minimum age for employment]." This may present authorities with the challenge of having to prove that a child is unwilling to work, or that the employment "may have a detrimental effect on his health, education, safety or conduct" within the ambit of article 7 (a) of the Employment Act. While the Government is satisfied with this legislation, it is fully aware, and this was also highlighted in the NGO Shadow Report, that these provisions are not always respected in practice.[291]

232. The Committee has taken note of the children who are sent from islands to Malé or other atoll capitals for educational purposes. The Committee is correct to point out that such children are often expected to help with domestic work in exchange for food and lodging.[292] The HRCM has reported that such arrangements have at times been coercive and exploitative.[293] New boarding schools have been built, as recommended by the Committee, but these schools cannot accommodate everyone coming to Malé for schooling, so the tradition of staying with relatives lives on. It is socially widely accepted that children make a contribution to the household work where they live, and hence this is a particularly difficult problem to address. It is believed that improved education opportunities in the atolls have reduced the incentive to leave one's home island for education. However, there are no statistics, so there is no conclusive evidence of any such trend.

233. There is anecdotal evidence of "instances where household poverty and broken family circumstances forced children to seek employment in the informal sectors and were subject to exploitation."[294] While it is fair to assume that this happens, nobody is able to offer any estimate of how common it is. It should be noted that the new Domestic Violence Act offers a very broad definition of what is "domestic".[295] For example, domestic workers who are subjected to violence (which is also very broadly defined) could apply for an order under the Domestic Violence Act.

## Illicit use of narcotic drugs and psychotropic substances

234. The preliminary results of the most recent National Drug Use Survey (2011–2012) referred to above, show that 47.6 percent of drug users in Malé are aged 15–19. The corresponding figure for the atolls is 18.4 percent.[296] That is an alarmingly high rate of children who use drugs, and who are associated with this very unforgiving and brutal business.

235. Partly in response to the Committee's recommendations, the legislative, regulatory and policy frameworks governing the trade in and use of narcotics in Maldives have undergone major reforms.[297] The new Drugs Act means that drug use is now primarily considered to be a medical and social problem, which must be addressed through prevention, harm reduction, treatment and rehabilitation. A new drugs court has also been established to handle cases involving drug users. The court will help channel drug users to the treatment and rehabilitation they need. The overarching policy is that drug users should be helped and cured, not punished and condemned.

[291] Paragraph 111 of the NGO Shadow Report.
[292] Paragraph 87 (d) of the concluding observations, op. cit.
[293] Maldives Human Trafficking National Action Plan p. 3.
[294] HRCM Labour Assessment op. cit. p. 53.
[295] Section 4 (a) of the Domestic Violence Act 2012.
[296] National Drug Use Survey of the Maldives (Official Presentation), slide 9.
[297] Paragraph 89 (a) of the concluding observations, op. cit.

236. Steps have been taken, by way of awareness-raising campaigns, to protect children from the drug trade. Some examples include the "Wake Up" campaign in 2007, which was started by a group of Maldivian youth, in partnership with the private sector and TV Maldives, to help children, youth and parents learn more about the effect of drugs and where to go for help. The public – particularly parents and teachers – were encouraged to speak openly about drugs and the consequences of drug use.[298] This notwithstanding, drug use remains a topic clouded by prejudice and stigmatisation. Staff working in government agencies or civil society organisations that provide information and services relating to topics such as drug use, sex education, or HIV, are often questioned by the public and accused of promoting immoral practices.

237. There are several types of confidential counselling services now available, providing information about addiction and the effects on families, and helping children and families to recover. Many of these service providers have set up toll-free help lines, which are useful by virtue of their anonymity, and practical thanks to the excellent cell phone converge and very widespread use of cell phones throughout the Maldives, also among children.

238. While this work has been extremely valuable and has made a huge difference, there is broad agreement within both government and civil society that these efforts have not been proportionate to the rapidly deteriorating situation with regard to drug use among children and young people. There are many worrying trends. They include; the lower quality of heroin (leading to severe and unpredictable side effects), the inflow of new synthetic drugs, and the fact that while drugs in the past were traded mainly by and among users, recent years has seen much of the business taken over by organised crime syndicates.

239. Multidisciplinary reintegration and recovery programmes exist, but these interventions are hampered by a number of challenges, including, inter alia:

(a) The treatment and rehabilitation services are insufficient to meet the demand. There are only 12 detoxification beds and 150 rehabilitation places for the over 3,000 people who qualify for this treatment already (the estimated number of users in 2012 was 7,496, and most of them are likely to qualify for treatment);

(b) The services remain relatively ineffective. The relapse rate is estimated at about 90 percent, and it is generally thought that this is due to (i) inadequate follow through of treatment and (ii) lack of aftercare;[299]

(c) There are no treatment and rehabilitation services specially designed for child victims of drug and substance abuse. However, the Drugs Act requires that the Government make such services available within 18 months of the Act having been passed;[300]

(d) Maldives lacks both the highly skilled personnel needed to manage recovery and rehabilitation, as well as the financial resources needed to scale up this work to meet the seemingly ever-increasing demand. Of particular concern is how to ensure that people in the atolls get access to the recovery and rehabilitation services that they need.

240. In addition to passing of the Drugs Act, the Government has conducted a drug survey in partnership with the United Nations Office on Drugs and Crime (UNODC). The purpose of this survey was to map and quantify the problem so as to ensure that polices in this area are evidence based and address root causes of drug use in the Maldives. One immediate conclusion is that the need for detoxification and rehabilitation services vastly exceeds the current supply. Hence a system is being set up whereby the NDA will be able

[298] A special campaign website has been set up: www.wakeup.mv.
[299] See also paragraph 50 (k) of the HRCM Shadow Report, op. cit.
[300] Article 47 of the Drugs Act (2011).

to license private operators, including foreign ones, to supply such services under NDA's supervision. It is hoped that it will help increase the availability of the treatment needed.

241. With regard to children using drugs, one major obstacle is the fact that they need consent from a parent or guardian to obtain professional help. Many parents, who know that their children use drugs, try to resolve the problem at home. They try to discipline or reach agreements with their children, often viewing their children's drug use as a mischief or act of disobedience. In so doing they typically fail to address root causes, and they are seldom able to deal with the complex medical, social and mental aspects of the problem. Often they seek professional help only as a measure of last resort. The common core document elaborated a little on the "traditional societal restrictions, whereby, affairs of the family are not revealed to the public domain, including the authorities."[301] This is another manifestation of those societal restrictions.

242. The problem with follow-through stems from the fact that many people feel much better after detoxification and hence they never complete the rehabilitation phase, rendering them far more likely to relapse. It also happens that parents discontinue treatment for their children following detoxification, perhaps because they want the ordeal to be over. The new Drugs Act will partially address this problem, as it will allow courts to order the full course of treatment, rehabilitation, and aftercare.[302] This will mean that discontinuing treatment after the detoxification stage will be a violation of a court order, which will trigger a law enforcement response. It is hoped that this will encourage and incentivise more people to complete the necessary treatment, rehabilitation, and aftercare programmes.

243. Initiatives have also been taken by the NDA, in partnership with UNODC and civil society organisations, to strengthen aftercare. The high relapse rate is very costly in the sense that the investments made in detoxification and other treatment are to a large extent lost if the patient falls back into drug use. Investments have also been made in community-based rehabilitation so that people will be able to go through rehabilitation within their own community. This is typically the only option available for recovering users outside of Malé.

244. Working with drug users requires a wide range of practical skills, as well as a good understanding of the situation in which users find themselves. This is particularly true when the drug user in question is a child. UNICEF has been helping to train former drug addicts to become counsellors, and they have then in turn recruited other former addicts to work with NGOs such as Journey and Open Hand. Yet, Maldives needs more qualified addiction professionals to manage the expanding caseload.

245. Efforts have also been stepped up with regard to outreach work. This is important, because, as the drugs survey shows, there are many more users than there are people registered for treatment. Those users must be identified and helped. Today, there are counsellors and health workers out on the streets of Malé, late at night, visiting the areas where drug users are known to congregate, providing information, services, supplies, and offering help with referrals to available rehabilitation schemes. These are professionals, to whom users can turn, knowing that they will not be judged.

246. Great efforts have been made to introduce "child specific prevention programmes" as per the Committee's recommendations.[303] The NDA and its partners are fully aware that the most drug users began using when they were under 18, and hence prevention must target children as young as 10. Children must be made aware of the dangers of drugs, what to do if they encounter them, and what they can do to help each other to resist drugs. Given

[301] Paragraph 335 of the common core document, op. cit.
[302] Article 47 of the Drugs Act (2011).
[303] Paragraph 89 (b) of the concluding observations, op. cit.

that practically every Maldivian 10-year-old goes to school, the best place to reach this age group is in school.

247. However, neither the NDA nor its civil society partners are generally permitted into schools to provide information about the risks of drug use and how to seek help for a drug addiction. School boards, principals, teachers, and parents, often fear that making information about drug use (and associated topics such as HIV/AIDS), available in schools might tarnish the image and reputation of the school. Some also feel that talking about drugs will introduce more children to drugs and thus exacerbate the problem.

248. In response to this, the Ministry of Education has, in partnership with UNICEF, rolled out a life skills module on drug use and HIV prevention. As suggested by the Committee, investments are being made in training teachers and facilitators to deliver the content of this package, and hence it can only be rolled out gradually.[304] In 2011 it was delivered in 12 schools on a pilot basis. In 2012, 40 more schools were added bringing the total to 52 schools. It is anticipated that the package will be delivered in all 224 schools nationwide by 2014. The phased approach also provides an opportunity to explain the need for the package to stakeholders who are sceptical.

249. Yet more work needs to be done to address the underlying structural causes of the widespread drug use among children and young people. The former Narcotics Control Bureau once observed that "many youngsters lack the skills and knowledge needed to cope 'in the new world'. They also lack the guidance to find their way in this uncharted territory. Old role models like parents, uncles, teachers and elders are no longer considered 'in' and have been replaced with youth icons from the 'modern world': actors, pop and film stars, sports heroes."[305]

250. They also looked at the new job market. "Traditional jobs are not 'cool' and therefore despised. Everyone wants to … become rich fast." But this is not so easy. "There is a scarcity of jobs in general and 'attractive' jobs in particular. This leaves an increasing number of youth as well as adults unemployed, with all the attending prob'ems. Drug abuse can then become one way … to escape the reality." Furthermore, "for those initiated into drugs the temptation to earn 'fast bucks' through drug dealing is immense, not only to pay for the habit, but also to acquire the riches they could not earn legally."[306]

251. Police, prosecutors, and social workers have noted that drug dealers are increasingly targeting vulnerable children. These will typically be children who are neglected by parents or who lack protective structures around them. Such children will be lured into addiction and into the community of a gang. Once they are part of the gang and under the firm control of a drug lord, children can be used to market and sell drugs. Given their age, they are less likely to be imprisoned if caught. Hence children are used for operations in which narcotics must be carried and where the risk of being apprehended in possessio.. of drugs is high, such as when selling and supplying. Children, being the lowest ranking members of the gang, are also used as pawns that can be sacrificed if an operation is foiled by law enforcement or by rival gangs. There are no official statistics on this, but both police and social workers, in several atolls, have pointed to it as an emerging trend.

[304] Paragraph 70 (b) of the concluding observations, op. cit.
[305] Maldives Drug Control Master Plan, 2006-2010, NNCB, p. 17.
[306] Ibid.

### Sexual exploitation

252. In accordance with the Committee's recommendations, the Ministry of Gender, Family, and Human Rights has sought the technical expertise to conduct a study on Commercial Sexual Exploitation of Children and Trafficking.[307] Due to circumstances beyond its control, the study has been somewhat delayed, but the consultancy has been re-advertised, and the activity is planned for the third quarter of 2012.

253. The HRCM has found "no evidence of children being tied to work through debt or of trafficking in ... children or of their being sold into forced prostitution or other work places..."[308] Yet, it is known that "Transactional Abuse (exchange of sex for material goods and money) is an emerging issue with girls as young as fourteen. There is also evidence that minor girls are coerced into prostitution by mothers for generating income for the family."[309] Some cases have been reported in which girls addicted to drugs are forced into prostitution in order to feed their drug addiction.[310] Given the nature of the trade in illicit drugs and given the experiences from other countries, it can be assumed that sexual exploitation of girls is a feature of the narcotics business also in the Maldives. The extent of that feature however, remains unknown. There have been a few cases in which child prostitution was suspected, but in none of those cases was it possible to gather sufficient evidence to take legal action.

254. It should be noted that the Special Measures Act prescribes prison terms for up to 21 years for a person convicted of having procured sexual services from a child.[311] A person convicted of having forced a child into prostitution will be sentenced to between 20 and 25 years in prison.[312] And a person convicted under the Special Measures Act will not be eligible for parole.[313] Maldives does not take such heinous crimes lightly.

255. The Committee is right to point out that the potential dangers of sex tourism cannot be overlooked.[314] Historically, the tourist industry has been separated from the Maldivian population. The tourist resorts are all located on uninhabited islands. However, a few guesthouses on inhabited islands have recently begun welcoming tourists, meaning that Maldivian children may become more exposed to the tourist industry. There are also risks associated with yachts and so-called safari boats that make landfall on inhabited islands. The Police Service has been trained, as per the Committee's advice, in detecting and investigating cases of suspected sexual exploitation of children.[315] In the training a special module was dedicated to detecting "offenders who travel [to foreign countries] to sexually abuse children."[316]

256. Maldives has demonstrated its abhorrence towards all forms of sexual exploitation and trade in sexual services. In response to suspicions that some of the country's spa establishments were used for such purposes, steps were taken in late 2011 to close down all spas in the country in order to carry out thorough investigations.[317] This was done despite the negative effects it had on the lucrative tourism industry, illustrating the principled

[307] Paragraph 92 of the concluding observations, op. cit.
[308] Employment Assessment, op. cit. p. 52.
[309] Maldives UPR report (2010), op. cit. p. 11.
[310] Draft Report of a Rapid Assessment Survey of Drug Abuse in the Maldives by Journey (2008).
[311] Article 17 (b) of the Special Measures Act (2009).
[312] Article 19 (a)–(b) of the Special Measures Act (2009).
[313] Article 50 of the of the Special Measures Act (2009).
[314] Paragraph 23 of the concluding observations on OPSC op. cit.
[315] Paragraph 94 of the concluding observations, op. cit.
[316] Training outline by the Child Exploitation and Online Protection Centre (UK).
[317] Ministry of Tourism, Circular 88/MBR/CIR/2011/17.

stance of the Government on these matters. In the 11 months prior to this report 31 such spas and saloons were raided by police in Malé. However, no child was found to be involved in any of these cases.

257. Since the passage of the Special Measures Act, several persons convicted of having sexually abused children have been sentenced to prison terms ranging from 10 to 20 years. According to the Prosecutor General's Office, 46 cases of "child sexual abuse" were submitted to the courts in 2011. In 2010, 35 cases were submitted. This can be compared to the 123 cases of sexual abuse that were handled by Child and Family Protection Services in 2011, and the 240 such cases handled in 2010.[318] How many of these cases could also be considered exploitation is not known.

258. The Committee is correct to point out that current legislation would not give Maldivian court's jurisdiction over an offence under the Optional Protocol if that offence was committed against a Maldivian national outside of Maldives.[319] However, it should be noted that the draft Penal Code, if enacted as it currently stands, appears to extend the jurisdiction of Maldivian courts to such instances.[320]

259. The Committee expresses "concern that children who have been victims of offences under the Optional Protocol may be criminalized according to Shariah law (including charges of *zina*)."[321] Across all four schools of Sunni practice, the term *zina* signifies *voluntary* sexual intercourse between a man and a woman not married to one another.[322] A victim of offences under the Optional Protocol has clearly been coerced, and thus cannot be guilty of *zina*. Furthermore, as noted above, under Maldivian law a child under 13 can never give consent to any sexual relations.[323] A child aged between 13 and 18 will be presumed not to have consented. The burden of proof to rebut that presumption will fall upon the person who stands accused of having had sexual relations with the child.[324] Nonetheless, as is evident from recent cases, more must be done by way of legal aid to ensure that girls and women are not coerced into confessing *zina*.

260. The Committee lists a number of concerns pertaining to the situation of victims of offences under the Optional Protocol.[325] The types of offences listed in article 3 of the Optional Protocol seldom come before the courts in Maldives. However, generally, in cases where children have been victims of abuse of any kind, all authorities concerned do their utmost to protect the children in question. Only specially trained professionals from law enforcement, the courts, health and social services would be involved in such cases. If the Committee has more specific recommendations for how child victims of abuse can be better protected during investigation and legal proceedings, the Government of Maldives would welcome them.

261. The Special Measures Act offers further protection for victims of the offences it covers. This includes protection of the identity of the victim(s), a right to counselling at the state's expense, financial assistance from the state, and support for civil claims against the perpetrators.[326]

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[318] Statistical Yearbook 2011, table 8.18.
[319] Paragraphs 27–28 of the concluding observations on OPSC op. cit.
[320] Section 13 (2) of the draft Penal Code.
[321] Paragraph 24 and 30 (a) of the concluding observations on the OPSC, op. cit.
[322] See e.g. Al-Muwatta', 2/734, 5/268, 269, Al-Istidhkaar, 7/146.
[323] Article 24 of the Special Measures Act (2009).
[324] Article 25 of the Special Measures Act (2009).
[325] Paragraphs 30 (b)–(f) and 33–34 of the concluding observations to the OPSC op. cit.
[326] Articles 51–56 of the Special Measures Act (2009).

## Trafficking in children for exploitative purposes

262. Regrettably the "research and comprehensive statistical data on the extent, nature and changing patterns of trafficking in children in the Maldives" that the Committee has called for, is not yet available.[327] What is known is that many of the between 80,000 to 100,000 foreign workers that government officials estimate are currently working in Maldives face conditions indicative of forced labour: fraudulent recruitment, confiscation of identity and travel documents, withholding or non-payment of wages, or debt bondage.[328] Out of the workers who have legal status in the country, none is officially under 21 years of age, since this is a requirement to obtain a work permit. However, the HRCM has come across individuals who admit to being under 18, and who have falsified documents suggesting they are 21 or older.

263. The dilemma is that many workers, as many as 40,000 workers by some estimates,[329] do not have legal status in the country.[330] Authorities believe that "a significant percentage of them might be victims of trafficking."[331] Since they are in the Maldives illegally and are not known to the authorities, there is no way to ascertain their ages. It is likely that there are minors among these paperless immigrants, but there is no data or even estimates of how many they might be.

264. There are reports that suggest Maldives is a source and destination country for women and girls subjected to sex trafficking.[332] However, it is not known on what scale, there are no official statistics, and nobody knows how many of them are under 18 years of age. In 2010 and 2011 there was only one official record of a minor having been trafficked.[333] Some reports indicate that internal sex trafficking of Maldivian girls is also a problem.[334]

265. HRCM is currently undertaking a rapid assessment on human trafficking in the Maldives. The preliminary findings suggest that trafficking is a problem, involving both Maldivians and foreigners, and that children are affected too. Once the assessment is completed, authorities will have a better understanding of the nature and extent of the problem.[335]

266. Maldives does not yet have laws prohibiting all human trafficking offenses, however, as noted in previous reports, the Constitution prohibits forced labour and slavery, and the Employment Act of 2008 also prohibits forced labour. The Special Measures legislation (referred to earlier) criminalises the prostitution of children with a penalty of up to 25 years imprisonment. The first draft of the Human Trafficking and People Smuggling Bill, which has been prepared with the help of Australian Attorney General's Office, has been tabled in the Majlis.[336]

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[327] Paragraph 96 of the concluding observations.
[328] Labour Relations Authority.
[329] Maldives Human Trafficking National Action Plan p. 3.
[330] The Human Rights Commission has reported that 17.2% of foreigners who participated anonymously in a recent survey said they did not hold a valid visa. Rights Side of Life, op. cit., p. 15.
[331] Maldives Human Trafficking National Action Plan p. 3.
[332] Trafficking in Persons Report (2012), Maldives Country Narrative.
[333] Paragraph 65 (second table) of the HRCM Shadow Report, op. cit.
[334] Ibid. See also Maldives Human Trafficking National Action Plan p. 3.
[335] Paragraph 67 of the HRCM Shadow Report, op. cit.
[336] Paragraph 106 of the of the Replies from the Government of Maldives, op. cit.

267. During the reporting period Maldives has agreed to become party to important international agreements that will have an impact on human trafficking in and through the country:[337]

(a) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;[338]

(c) The United Nations Convention against Transnational Organized Crime,[339] and;

(d) An agreement of cooperation with the International Organization for Migration (IOM). Maldives also became a member of the IOM on December 5th 2011.

268. In April and May 2011, the Department of Immigration and Emigration (DIE) conducted two training programmes on trafficking victim identification, training 17 labour inspectors and 35 police officers. In March 2012, the government approved an anti-trafficking action plan for 2012–2014 which details the steps the Government will take to curb trafficking of human beings into and through Maldives.[340] In January 2012, the government established an Anti Human-Trafficking and People Smuggling Unit, which is charged with implementing the action plan. The DIE also established an integrated investigation unit within the Maldives Police Services.

269. Despite these efforts, Maldives was recently placed on the Tier 2 Watch List for a third consecutive year, which suggests that efforts to eliminate trafficking have been insufficient. Maldives was granted a waiver from an otherwise required downgrade to Tier 3 with reference to the anti-trafficking action plan, which, if implemented, "would constitute making significant efforts to meet the minimum standards for the elimination of trafficking."[341]

## Administration of juvenile justice

270. The Juvenile Justice Bill has not been enacted. The original draft from 2007 was not produced in a sufficiently consultative manner and it has since then been redrafted no less than seven times. These revisions have taken place following extensive consultations and amendments to allow the proposed legislation to be implementable. The new 2008 Constitution resulted in further changes to the bill. The current draft, which is awaiting approval from the Office of the Attorney General, is thus a very comprehensive piece of legislation. While the failure to get this legislation passed is highly regrettable, the Government believes that the revisions and deliberations that have taken place since the original bill was drafted have ensured that that the bill is now sound and fully compliant with international standards.[342]

271. Despite the Juvenile Justice Bill not having been enacted, the state has nonetheless proceeded to give effect to its provisions by adopting regulations and guidelines, in relation

[337] Paragraphs 110–113 of the Replies from the Government of Maldives, op. cit.
[338] Paragraph 111 of the Replies, op. cit.
[339] Paragraph 112 of the Replies, op. cit.
[340] Human Trafficking Maldives National Action Plan (2012).
[341] Trafficking in Persons Report (2012), Maldives Country Narrative.
[342] Paragraph 99 (a) of the concluding observations, op. cit.

to how children are arrested, tried, and sentenced. There are also standard operating procedures for how children deprived of their liberty should be cared for. These measures seek to give effect to articles 37 and 40 of the CRC, and draw heavily on the:

(a) United Nations Standard Minimum Rules for the Administration of Juvenile Justice: the "Beijing Rules" (1985);

(b) United Nations Rules for the Protection of Juveniles Deprived of their Liberty: the "Havana Rules" (1990);

(c) United Nations Guidelines for the Prevention of Juvenile Delinquency: the "Riyadh Guidelines" (1990); and

(d) United Nations Standard Minimum Rules for Non-Custodial Measures: The Tokyo Rules (1990).

272. The administration of juvenile justice is, contrary to the observations made by the Committee, not at all "based on the principle of punishment and detention".[343] The primary objective of today's juvenile justice system in the Maldives is to repair harm done and to help both victims and offenders to live in harmony within their community. This is done using a problem-solving approach to crime, which involves the parties themselves, but also the broader community. The system seeks to identify and address root causes of anti-social or criminal behaviour, rather than simply focus on the offence itself. This philosophy of restorative justice has been adopted, not just to ensure compliance with international standards, but more importantly, because the Government believes that it represents an effective way of reducing crime among children and young people.

273. With the support of UNICEF a training module on "International Standards on Juvenile Justice" has been embedded into the basic training programme at the Police Training Academy.[344] Consultations with the Police in several atolls have revealed a high level of appreciation for these standards and consistent application of the relevant regulations.[345]

274. The Committee is rightly concerned by the extent to which children are being heard in matters that affect them. The current practice in the juvenile court is to ensure that the child is always heard, not least for purposes of determining the child's best interest. But, as the Committee has noted, a child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age.[346] Proceedings must be both accessible and child-appropriate. While this can be ensured in the juvenile court in Malé, it is more difficult in the regular magistrates' courts in the atolls. Nonetheless, the training that has been provided to magistrates in the atolls has helped to ensure that proceedings are more child-friendly, and that children are being heard more often, and not just in custody cases.

275. Incarceration is a measure of last resort when it comes to children convicted of criminal offences. All other alternatives, including, inter alia, case and community conferencing, education, diversion, and vocational training, are considered first.[347] Consequently, it is relatively rare for child offenders to be incarcerated. As of June 13th,

[343] Paragraph 97 (a) of the concluding observations, op. cit.

[344] UNICEF Maldives Annual Report 2010, p. 2.

[345] Regulations on Conducting Trials, Investigations and Sentencing Fairly for Offences Committed by Minors 2006/XX/MJ.

[346] Paragraph 34, general comment No. 12, CRC/C/GC/12 (2009).

[347] See section 19 (a) of the Regulations on Conducting Trials, Investigations and Sentencing Fairly for Offences Committed by Minors.

2012, there were four sentenced child offenders who were serving prison terms. There are plans to set up a community service programme in partnership with the Ministry of Human Resources, Youth and Sports, with emphasis on various vocational training options.

276. In 2009 the Correctional Training Centre for Children (CTCC) was opened to house juvenile delinquents. In the words of the HRCM (which visits the Centre regularly), the CTCC "provides supportive training, life skills and guidance in order to minimize risky behaviour." This again illustrates the emphasis on rehabilitation and reintegration as opposed to punishment.[348]

277. The age of criminal responsibility and how it is assessed under the current law has been outlined earlier and in previous reports.[349] In practice however, prosecutors do not charge children under the age of 15. Typically, in cases where "the minor is not a recidivist" the Police will not even refer the matter for prosecution.[350] The minimum age of criminal responsibility set out in the pending juvenile justice bill is 12 years.[351] The bill, if enacted as it stands, will also limit the criminal responsibly of children under the age of 15 in accordance with the child's "maturity of understanding" and ability to "judge the nature and consequences of his conduct."[352]

278. No person who was under the age of 18 at the time of the offence has been sentenced to death during the reporting period. The death penalty will most probably be formally abolished for minors, as recommended by the Committee,[353] when the Juvenile Justice Bill is enacted.[354] However, in a recent case, the relatives of a murder victim has demanded death sentences (under the principle of *Qisas*) for two suspects who were under 18 at the time of the alleged offence.[355] The trial was still ongoing at the time of reporting.

279. The legal position with regard to corporal punishment for children has been set out above.[356] Nonetheless, it is worth reiterating that very few children are sentenced to corporal punishment. Both the new draft Penal Code and the Juvenile Justice Bill seek to abolish corporal punishment for minors.[357]

280. There is a juvenile court in Malé, with trained professionals, including two specialised judges. However, due to both resource and capacity limitations, it has not been possible to establish such courts elsewhere in the country as recommended by the Committee.[358] Instead, the JJU and its partners have ensured that all magistrates have undergone training in juvenile justice and in how to conduct child friendly legal proceedings. The magistrates have had chances to observe proceedings in the juvenile court, and the JJU provides direct support to magistrates when they hear criminal matters involving children.

281. Children convicted of criminal offences are seldom expelled from school. As noted above, expulsion from school is only resorted to when the child in question poses a threat to

[348] Paragraph 50 (j) of the HRCM Shadow Report, op. cit.
[349] Paragraph 116 of Maldives' combined second and third CRC report, op. cit.
[350] Article 10 (a) of the Regulations on Trials, Investigations and Sentencing Fairly for Offences Committed by Minors.
[351] Article 3 (1) of the Juvenile Justice Bill.
[352] Article 3 (2) of the Juvenile Justice Bill.
[353] Paragraph 99 (d) of the concluding observations, op. cit.
[354] Article 26 (a) of the Juvenile Justice Bill.
[355] See http://www.haveeru.com.mv/news/42477 June 5th, 2012.
[356] See paragraph 105 above.
[357] Article 26 (d) of the Juvenile Justice Bill.
[358] Paragraph 99 (f) of the concluding observations, op. cit.

fellow students and staff.[359] Both the education and juvenile justice systems place great emphasis on children in conflict with the law accessing education. Education, along with vocational training, or livelihoods training, can help divert them away from a criminal career path.

282. Conditions in prisons and detention facilities, generally, have improved during the reporting period.[360] In its 2011 human rights report, the US State Department, noted that "[p]rison conditions [in the Maldives] generally met international standards."[361] Yet, this is not a reason to be complacent, in particular not with regard to the conditions under which children are incarcerated. There are shortcomings, not least the fact that there are currently no facilities for incarcerating girls separately from adult women. The Committee singled out the Dhoonidhoo Detention Centre, where the Committee noted that "children are detained in very poor conditions."[362]

283. Dhoonidhoo is a pre-trial detention facility, yet every effort is made to avoid pre-trial detention. The Constitution states that "[n]o person shall be detained in custody prior to sentencing, unless the danger of the accused absconding or not appearing at trial, the protection of the public, or potential interference with witnesses or evidence dictate otherwise. The release may be subject to conditions of bail or other assurances to appear as required by the court."[363] There is thus a presumption in favour of bail pending trial, and this certainly applies to children as well as to adults. The applicable regulations further stipulate that a "minor suspected of committing an offence shall not be arrested or detained for investigation unless absolutely necessary."[364]

284. Relatively few alleged child offenders would fall into the categories referred to in the Constitution, and even when they do, it is seldom "absolutely necessary" to detain them.[365] While conditions remain unpleasant, there is continuous independent monitoring of detention conditions. All detainees, including children, their guardians and representatives, also have access to effective complaints, investigation and enforcement mechanisms.

285. Maldives ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in February 2006. Following ratification, Maldives agreed to implement the National Preventive Mechanism (NPM), under which the Human Rights Commission regularly visits prisons, police detention centres, drug rehabilitation centres and other places of detention. The Dhoonidhoo Detention Centre is regularly visited under the NPM, and conditions under which children are detained are inspected.[366]

286. A total of 69 recommendations were made under the NPM in respect of the Dhoonidhoo Detention Centre. Out of those, 20 have been standardised, 16 have seen "positive progress", 11 "adequate progress" and 10 "nominal progress". Only 12 recommendations have seen "no progress".[367] This suggests that generally, conditions at Dhoonidhoo Detention Centre have improved during the reporting period.

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[359] See paragraph 214 above.

[360] See paragraphs 225–227 of the common core document, op. cit.

[361] 2010 Country Reports on Human Rights Practices – Maldives.

[362] Paragraph 98 (i) of the concluding observations.

[363] Article 49 of the Constitution of the Republic of Maldives (2008).

[364] Article 11 (a) of the Regulations on Conducting Trials, Investigations, and Sentencing Fairly for Offences Committed by Minors.

[365] Dhoonidhoo is pre-trial detention facility and it accommodates only persons who have not been convicted of an offence.

[366] See further paragraph 135 of the common core document, op. cit.

[367] Paragraph 53 and adjacent table of the HRCM Shadow Report, op. cit.

287. In addition to that, the Ministry of Home Affairs has set up an internal mechanism whereby the Inspector of Correctional Services is mandated to visit and monitor all prisons and detention facilities.[368] On a less formal level, the JJU has access to all children deprived of their liberty, be it at Dhoonidhoo or elsewhere. They listen to the concerns children and their parents have, and if conditions are inadequate, they have a close dialogue with the both police and prison authorities, through which such concerns can be addressed.

288. A problem that the Committee did not highlight, but which is pressing, is the lack of juvenile detention facilities at many of the country's police stations. Minors are typically provided with separate cells, but these are located among cells in which adults are detained. Hence contact between adults and minors is not altogether avoided.[369] In Malé the Police is planning to address this problem by erecting a separate building in which to detain minors pending transfer to Dhoonidhoo. In the atolls the recent destruction and burning of many police stations in conjunction with demonstrations has made it even more difficult to detain children in separate facilities.

289. One of the most common categories of crime in which children are engaged is drug-related offences. As shown in annex I, about a third of all children arrested are arrested for a drug-related offence,[370] and about a fifth of all children charged are charged with a drug-related offence.[371] Based on this, it can be assumed that once the Drugs Court is fully operational, which it will become during the course of 2012, this will have a significant effect on the number of cases that go to the Juvenile Court.

290. In addition to the children who have been convicted by a court for having committed criminal offences, there is a mechanism for administrative detention of boys at the FeydhooFinolhu Correctional Training Centre for Children (CCTC). Children can be detained at CCTC when they are deemed to pose a risk to society and to themselves; typically they have been arrested on repeated occasions, on suspicion of having committed offences. The legal basis for this system is the Law on the Protection of Children and the Regulations on Isolation of Children from Society for the Purposes of Reform (2010).

291. The CCTC has thus far been successful. Estimates suggest that only about 20 percent of the boys who have graduated from the programme at CTCC have relapsed into antisocial behaviour and crime. However, questions have been raised about whether the system of administrative detention of children in Maldives is compatible with article 37 (b) of the CRC, and the Government of Maldives would therefore like to seek the advice of the Committee on this matter.[372]

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[368] See further paragraph 221 of the common core document, op. cit.

[369] See further paragraph 221 of the common core document, op. cit.

[370] Statistics of Arrest of Minors, Maldives Police Service.

[371] Justice Sector Statistics 2010, Department of Judicial Administration, Supreme Court of Maldives (2011) p. 63.

[372] Child Participation in the Maldives: An Assessment of Knowledge, HRCM and UNICEF (2012), pp. 60–64, Graveson (2011) op. cit. pp. 23–25.